

1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
3 In Re: Case No. 07-35257-cgm
Chapter 7

4 ANN-MARIE WESTRIDGE,

5 Debtor. Poughkeepsie, NY
-----X February 20, 2009

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8 TRANSCRIPT OF HEARING
9 RE: MOTION FOR SANCTIONS FOR VIOLATION OF
AUTOMATIC STAY

10 BEFORE THE HONORABLE CECELIA G. MORRIS
11 UNITED STATES BANKRUPTCY COURT JUDGE

12 APPEARANCES:

13 For Debtor/Movant: MIKCHAE D. PINSKY, ESQ.

14 For Respondent: WARREN GREHER, ESQ.
15 Greher Law Office, P.C.

16 ALSO PRESENT:

17 MR. STEVE FORD
18 MRS. KATHIE FORD
19 MS. ANN-MARIE WESTRIDGE

20
21
22 Transcriber: KAREN SCHMIEDER, CSR, RDR
23 Schmieder & Meister, Inc.

24 The Proceedings were recorded by electronic
25 sound recording; transcript was produced by a
transcription service.

1 THE COURT: Ann-Marie Westridge.

2 State your name and affiliation.

3 MR. PINSKY: Mike Pinsky, Your
4 Honor, for the movant and debtor, Ann-Marie
5 Westridge.

6 MR. GREHER: Good morning, Your
7 Honor. Warren Greher on behalf of the
8 respondents, Kathie and Steve Ford.

9 THE COURT: Very good. Witnesses,
10 I need to have who the witnesses are, and do
11 we sequester witnesses?

12 MR. GREHER: I'd ask that they be
13 sequestered.

14 THE COURT: Okay, very good.

15 MR. PINSKY: Very good, Your Honor.

16 The witnesses listed in the joint
17 pretrial for the movant are the debtor
18 herself, Ann-Marie Westridge, this is in
19 Section VIII.

20 THE COURT: Okay, she stays in the
21 courtroom obviously.

22 MR. PINSKY: Yes, ma'am. Andrea
23 Malin, who is general counsel to the debtor,
24 William Helgerman.

25 THE COURT: He is a witness for

1 both sides or on the witness list for both?

2 MR. PINSKY: On the witness list
3 for both. And Sandra Raymond.

4 THE COURT: Raymond, R-A-Y-M-O-N-D?

5 MR. PINSKY: Yes, ma'am.

6 THE COURT: Is Miss Raymond in the
7 courtroom?

8 MR. PINSKY: She is.

9 THE COURT: Okay, if Miss Raymond,
10 Miss Malin and Mr. Helgerman would come and
11 stand in the middle, right there, and I am
12 going to swear you in right now. Raise your
13 right hand:

14 Do you solemnly swear the testimony
15 you will give in this Court will be true and
16 correct to the best of your knowledge and
17 belief, so help you God?

18 MS. MALIN: Yes, I do.

19 MR. HELGERMAN: Yes, I do.

20 MS. RAYMOND: Yes, I do.

21 THE COURT: Okay, you all may
22 leave. There are conference rooms out here;
23 you can stay in there, and then we'll come
24 and get you whenever we need you. Just take
25 your stuff with you, just so it's with you,

1 you'd be safe. Thank you.

2 MS. MALIN: Thank you, Your Honor.

3 THE COURT: Thank you.

4 Mr. Pinsky, it is your action.

5 MR. PINSKY: Yes, ma'am. Judge, do
6 you want us to get right to the testimony?

7 THE COURT: Well, I would like to
8 first look through the exhibits.

9 MR. PINSKY: Yes, ma'am.

10 THE COURT: We had some exhibits;
11 there are six exhibits, is that correct?

12 MR. PINSKY: That's correct, Judge.

13 THE COURT: Are they stipulated to?

14 MR. PINSKY: As to authenticity
15 only for numbers 2 through 6.

16 THE COURT: Oh, well, you don't
17 have a problem with 1?

18 MR. PINSKY: As to 1, stipulated as
19 to authenticity and admissibility.

20 THE COURT: Yes, I was going to
21 say, 1 is public record, so even if you
22 don't, it's in.

23 MR. GREHER: I did, so.

24 THE COURT: Yes, because that's
25 what it is. Okay, number 2, authenticity,

1 but what else about it?

2 MR. PINSKY: Mr. Greher, I believe
3 has an objection.

4 THE COURT: You do?

5 MR. GREHER: Your Honor, I have
6 objections with respect to Exhibits 3, 4 --

7 THE COURT: We are on 2, let's do
8 2.

9 MR. GREHER: My objection with
10 respect to Exhibit 3 is with --

11 THE COURT: 2, 2, 2.

12 MR. GREHER: I'm sorry, 2, is one
13 of relevancy, Your Honor. The issues before
14 this Court are set forth in the motion
15 papers. There are specifically two issues
16 that I think have to be addressed at this
17 hearing, and that would be the alleged
18 incident that took place on May 30th and the
19 alleged incident that took place on October
20 23rd.

21 THE COURT: Okay, you will
22 stipulate to the fact that there was an
23 objection to claim filed?

24 MR. GREHER: For whatever the
25 relevancy that is, yes.

1 THE COURT: Okay, that's enough.

2 MR. PINSKY: Well, Your Honor,
3 there is a claim of Mr. Ford, which he
4 signed and filed under penalty of perjury --

5 THE COURT: Okay, well, then let's
6 have that one separate. Because that one, I
7 don't think there would be any objection to
8 that. Here it is. Can we just make that
9 one No. 2, Proof of Claim?

10 MR. GREHER: Once again, with
11 respect to that, yes.

12 MR. PINSKY: Judge, I think that's
13 fine.

14 THE COURT: Okay, right now,
15 stipulated to is the Proof of Claim, and
16 that's all we've got on this one at this
17 point. If you need anything else, you can
18 do something else on it.

19 MR. PINSKY: Very good.

20 THE COURT: All right, No. 2. Now
21 we are at No. 3, you had an objection to
22 that?

23 MR. GREHER: Yes, once again,
24 relevancy with respect to this proceeding,
25 Your Honor.

1 THE COURT: I will take that under
2 account when it gets to the point of this
3 being moved in.

4 MR. PINSKY: Very good, Your Honor.

5 THE COURT: Okay, so we have 1 and
6 2, 3, relevancy, objection to confirmation,
7 same thing?

8 MR. GREHER: Yes.

9 MR. PINSKY: This is the response
10 to 3, Your Honor. So to the extent 3 is
11 relevant, 4 will follow, and if it's not, it
12 won't.

13 THE COURT: Right, exactly.

14 MR. PINSKY: 5 and 6 are the
15 attorneys' fees and disbursement records.

16 THE COURT: Which might be relevant
17 at the time we get to them.

18 MR. PINSKY: Yes, ma'am. If Your
19 Honor finds that there was willful
20 violation, then those will become relevant.

21 THE COURT: Exactly. Okay, good.
22 So that's all the exhibits we have?

23 MR. PINSKY: Yes, ma'am.

24 MR. GREHER: Yes.

25 THE COURT: Very good. So we have

1 got those pretty much taken care of. Any
2 other preliminary matters?

3 MR. PINSKY: I don't believe so.

4 THE COURT: Okay, at this moment --
5 I will tell you at the end, but I want you
6 to take notes, because more than likely,
7 after a trial you'll have to give me
8 findings of fact and conclusions of law.

9 MR. PINSKY: Yes, ma'am.

10 THE COURT: And you will need to do
11 those either on e-mail filing or -- either
12 e-mail or on disk, and I will limit those
13 when we get there. But I just want you all
14 to keep that in mind when you're doing the
15 trial.

16 MR. PINSKY: Very good, Your Honor.
17 And just as a housekeeping matter, the
18 parties did submit proposed findings and
19 conclusions as part of the pretrial.

20 THE COURT: Yes, and I have that.
21 I have that right there, and I've gone
22 through that several times. I've read it
23 over, so I have them.

24 MR. PINSKY: Yes, ma'am. And we'll
25 clean them up at the end.

1 THE COURT: Yes, that's what I want
2 you to do. Because at the end what you'll
3 have to do is clean up what came in as
4 testimony, and I want you citing to the
5 transcript. So the post-trial ones would
6 say "found at," so you have exactly the
7 evidence.

8 MR. GREHER: So we should be
9 ordering this transcript, is what you're
10 saying, before we make any further
11 submissions?

12 THE COURT: Exactly.

13 MR. GREHER: Okay, that's fine.

14 THE COURT: Very good.

15 Mr. Pinsky, you're on first.

16 MR. PINSKY: Your Honor, do you
17 care to hear any opening remarks?

18 THE COURT: I have read the joint
19 pretrial. I think I am pretty clear on the
20 issues. Unless there is something that you
21 didn't put in the pretrial, and I would be
22 not happy about that.

23 MR. PINSKY: No, ma'am. I think
24 we're ready to go.

25 THE COURT: Very good.

1 MR. PINSKY: The debtor calls
2 Ann-Marie Westridge.

3 THE COURT: Very good, Miss
4 Westridge, I didn't have you sworn in. And
5 the Fords, I need to have all of you stand
6 and raise your right hand:

7 Do you solemnly swear the testimony
8 you're about to give is the truth, the whole
9 truth and nothing but the truth, so help you
10 God?

11 MS. WESTRIDGE: Yes.

12 MRS. FORD: Yes.

13 MR. FORD: Yes.

14 THE COURT: Very good. Miss
15 Westridge, take the witness stand. State
16 your full name.

17 THE WITNESS: Ann-Marie Westridge.

18 THE COURT: And Miss Westridge,
19 what's your address, please.

20 THE WITNESS: 12 Laurel lane,
21 Otisville, New York 10963.

22 THE COURT: And let me remind you
23 you're under oath.

24 THE WITNESS: Yes.

25 THE COURT: Mr. Pinsky.

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1 MR. PINSKY: Yes, ma'am.

2

3 (ANN-MARIE WESTRIDGE, having been
4 first duly sworn, testified as follows:)

5

6 DIRECT EXAMINATION

7 BY MR. PINSKY:

8 Q. Miss Westridge, you are that same Ann-Marie
9 Westridge who is the debtor in this Chapter 7
10 case, are you not?

11 A. Yes.

12 Q. Do you know Steven Ford?

13 A. Yes.

14 Q. And do you know Kathie Ford?

15 A. Yes.

16 Q. Are they present in the courtroom today?

17 A. Yes.

18 THE COURT: Okay, we are going to
19 need to have some help here. Mr. Greher
20 cannot hear the witness, so you're going to
21 need to move that microphone closer to you.
22 Now then, let's do a test. Just speak into
23 it.

24 THE WITNESS: Hello.

25 THE COURT: Much better. Thank

PINSKY - DIRECT - WESTRIDGE

1 you.

2 Mr. Greher, you can't see her
3 there?

4 MR. GREHER: It's a little
5 difficult.

6 MR. PINSKY: I can sit down, Judge.

7 MR. GREHER: I can move around.
8 I'll move around. It's all right.

9 THE COURT: All right, thank you.

10

11 BY MR. PINSKY:

12 Q. And Miss Westridge, how do you know the Fords,
13 Steven Ford and Kathie Ford?

14 A. Through my friend Billy.

15 Q. Okay.

16 THE COURT: Tell me the full name
17 of your friend Billy.

18 THE WITNESS: William Michael
19 Helgerman.

20

21 BY MR. PINSKY:

22 Q. And did you formerly have a romantic
23 relationship with Mr. Helgerman?

24 A. Yes.

25 Q. And was there a relationship between Mr.

PINSKY - DIRECT - WESTRIDGE

1 Helgerman and one of the Fords, a familial
2 relationship?

3 A. Yes.

4 Q. And what was that?

5 A. Kathie Ford is his sister.

6 Q. Very good. And how long have you known the
7 Fords?

8 A. Seven years, approximately.

9 Q. And did you know them in a personal capacity or
10 a business capacity or both?

11 A. Both.

12 Q. And what was that business capacity?

13 A. Through the company that I owned.

14 Q. What was that company?

15 A. All Points Construction.

16 Q. And what was the business of All Points
17 Construction?

18 A. New home building.

19 Q. All right. And what business relationship did
20 one or both of the Fords have with All Points
21 Construction; how did they participate in your
22 business?

23 A. Financially.

24 Q. Financially?

25 A. Um-hmm.

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- 1 Q. And specifically how financially?
- 2 A. He invested some money into my company.
- 3 Q. And when you say "he" you mean Steven Ford?
- 4 A. Steven, yes, because that's who I dealt with.
- 5 Q. And how did that relationship work; you say he
- 6 invested money, what was the arrangement?
- 7 A. The first -- well, I dealt with him on a couple
- 8 of different ones. The first one was a loan of
- 9 \$50,000.
- 10 Q. Okay.
- 11 A. Which was paid back with interest.
- 12 Q. Okay, very good. And was that a personal loan
- 13 or a business loan?
- 14 A. A business loan.
- 15 Q. All right. And after -- and how did you pay him
- 16 back; what did you pay him back from?
- 17 A. By check.
- 18 Q. Where did the money come from?
- 19 A. Oh, from the building, from the sale of a house.
- 20 Q. Okay, very good. What was the next business or
- 21 financial engagement between All Points
- 22 Construction and Mr. Ford?
- 23 A. The investment.
- 24 Q. And how much did Mr. Ford invest?
- 25 A. \$50,000.

PINSKY - DIRECT - WESTRIDGE

1 Q. And was that invested in connection with a
2 specific construction project?

3 A. Yes.

4 Q. And how did that project turn out?

5 A. Turned -- I don't understand -- how did that
6 turn out.

7 THE COURT: Was it a success or was
8 it a failure?

9 A. No, it was a success.

10 Q. A success. And was he repaid his investment?

11 A. No, he was paid commissions.

12 Q. He was paid commissions?

13 A. Yes.

14 Q. All right. So how much of that \$50,000 did he
15 get back?

16 A. I don't recall.

17 Q. Okay, did he get some of it or all of it?

18 A. Some of it, yes.

19 Q. Okay. Did you continue to do business; did All
20 Points Construction continue to do business with
21 Mr. Ford after --

22 MR. GREHER: Note my objection to
23 the form of the question, Your Honor. It
24 was indicated that the relationship,
25 whatever it was, was a financial one, not a

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1 business one, so.

2 MR. PINSKY: I'll rephrase.

3 THE COURT: Thank you.

4

5 BY MR. PINSKY:

6 Q. Was there a further financial dealing between

7 All Points Construction and Mr. Ford?

8 A. No.

9 Q. Did you at some point encounter difficulty with
10 the business of All Points Construction?

11 A. Yes, I did.

12 MR. GREHER: Objection, leading.

13 Q. Is All Points Construction still in --

14 THE COURT: I was going to say wait
15 a minute. I can rule on that.

16 MR. PINSKY: Yes, ma'am.

17 THE COURT: Tell me why that's
18 leading?

19 MR. GREHER: He's suggesting the
20 answer to the question. It's a classic
21 leading question.

22 THE COURT: Okay, rephrase. I'll
23 sustain the objection, even though I'm not
24 sure about it. Go ahead.

25 MR. PINSKY: Very good, Your Honor.

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1 BY MR. PINSKY:

2 Q. Miss Westridge, is All Points Construction still
3 in business?

4 A. No.

5 Q. Why is it no longer in business?

6 A. I became ill and couldn't run the business any
7 longer.

8 Q. And approximately when did that happen?

9 A. 2005.

10 Q. And was your illness also in 2005?

11 A. Yes.

12 Q. Was it a serious illness?

13 A. Yes.

14 Q. What was the nature of the illness, if you're --

15 A. There were several. I had cervical cancer; I
16 have a blood disorder.

17 Q. And what did you do after you encountered these
18 health problems with your business?

19 MR. GREHER: If I may, Your Honor,
20 I would object at this time on the grounds
21 of relevancy. I don't know where we are
22 going with respect to this. I understand
23 it's background, but I don't know if we need
24 it.

25 THE COURT: We're laying

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1 background. I'm not sure we need it either.

2 I'm listening for a little while longer.

3 Why don't we just ask: Did the debtor

4 personally guaranty the loans Ford made to

5 All Points?

6 MR. PINSKY: Okay, sure.

7 THE COURT: Would that move us

8 along faster?

9 MR. PINSKY: Actually, I'm not sure

10 it would, Judge. I'll tie it up real quick.

11 THE COURT: Okay.

12 BY MR. PINSKY:

13 Q. When did you file your bankruptcy case, Miss

14 Westridge?

15 A. 2007 -- I believe.

16 Q. Did you list Mr. Ford as a creditor?

17 A. Yes.

18 THE COURT: Let the record reflect

19 the case was filed in 2007.

20 MR. PINSKY: Yes, ma'am. Your

21 Honor, may I approach?

22 THE COURT: Yes, you may.

23 Q. Miss Westridge, I show you a copy of what's been

24 marked as debtor's Exhibit 1 and ask you if you

25 recognize the document?

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1 A. Yes.

2 Q. And what is it?

3 A. It is a voluntary petition for my Chapter 7.

4 Q. And if you would, take a brief look at it and
5 tell me if that is in fact the petition that you
6 reviewed and signed for filing with the
7 Bankruptcy Court?

8 A. Yes.

9 Q. Did you list Steven Ford as a creditor in your
10 bankruptcy case?

11 A. Yes, I did.

12 Q. Do you recall going to a creditors' meeting in
13 your bankruptcy case?

14 A. Yes.

15 Q. How many creditors' meetings were there?

16 A. I believe two.

17 Q. All right, under what chapter was this case
18 originally filed?

19 A. Chapter -- I believe it was Chapter 7.

20 Q. And at some point was this case converted to
21 another chapter?

22 A. Yes.

23 MR. GREHER: Your Honor, at this
24 time we'll stipulate that it was filed as a
25 7, converted to a 13 and then converted back

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1 to a 7.

2 THE COURT: Very good, thank you.

3 BY MR. PINSKY:

4 Q. Do you recall going to a creditors' meeting in
5 the Chapter 13 case?

6 A. Yes.

7 Q. And who was present at the creditors' meeting in
8 the Chapter 13 case, if you recall?

9 A. The people I recall is myself, my attorney,
10 Andrea Malin, my sister, Sandra Raymond, Kathie
11 and Steve Ford, Stan -- and I'm not sure of his
12 last name, Edward Dummell, and that's all I can
13 recall.

14 Q. All right. And can you describe for us what
15 interaction there was between you and either
16 Kathie or Steven Ford at the Chapter 13
17 creditors' meeting?

18 A. In the courtroom?

19 Q. In the courtroom -- in the 341 meeting room,
20 yes, ma'am?

21 A. Kathie asking questions, Steven asking
22 questions. That's about all I remember.

23 Q. All right, and --

24 A. Specific questions I don't know, I don't
25 remember.

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1 Q. And after the meeting was concluded, where did
2 you go?

3 A. I -- we left -- my sister and I left the
4 courtroom.

5 Q. And your sister is named?

6 A. Sandra Raymond.

7 Q. And when you left the courtroom where did you
8 go?

9 A. We were walking outside, and that's when we had
10 seen Kathie and Steve outside.

11 Q. All right, and what happened when you went
12 outside the building where the 341 creditors'
13 meeting was held?

14 A. Kathie Ford started yelling and screaming that
15 she wanted her money, and then an altercation
16 happened.

17 Q. What was the altercation?

18 A. Steven went to grab my arm. He said he wanted
19 to talk to me. My sister then jumped in the
20 middle. Andrea, at that point, had told my
21 sister, Sandra, and I to come inside.

22 Q. All right. Do you recall about how long the
23 incident between you and the Fords lasted
24 outside the 341 meeting room?

25 A. If I had to guess, two minutes.

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1 Q. Two minutes, all right. And what happened after
2 you went back inside with Miss Malin?

3 A. Miss Malin told me to call the police.

4 Q. All right. And did you leave the building
5 again?

6 A. No, because I was scared to. I didn't want
7 to -- because Steven had made the comment that
8 he would wait for me out in the parking lot.

9 Q. So how did you exit the building?

10 A. Andrea had called the court marshal to escort my
11 sister, Sandra, and I to my vehicle.

12 Q. And is that how you got to your car?

13 A. Yes.

14 Q. All right, and you were able to leave from your
15 car to wherever you were heading?

16 A. Yes.

17 Q. Did there come a time where you had another
18 interaction with either Kathie or Steven Ford
19 after the 341 meeting in your Chapter 13 case?

20 A. Yes.

21 Q. And what was that interaction?

22 A. Kathie Ford came to my home.

23 THE COURT: That's not responsive
24 to the question. You asked the 341; she
25 said her home.

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1 MR. PINSKY: Actually, Your Honor,
2 I asked her if there came another
3 interaction after the 341 meeting.

4 THE COURT: Oh, I'm sorry.

5 MR. PINSKY: But I'll ask it again.

6 THE COURT: All right.

7 BY MR. PINSKY:

8 Q. After this incident at the 341 meeting room,
9 when was the next time that you had a discussion
10 or a meeting with either Steven or Kathie Ford?

11 A. When she came to my home in October.

12 Q. And she is?

13 A. Kathie Ford.

14 Q. Kathie Ford. And where was your home, where was
15 that located?

16 A. 116 Tote Pasture Road in Westtown, New York.

17 Q. All right. And who was present on that day in
18 October when Kathie Ford came to your home in
19 Westtown?

20 A. My friend William. He actually answered the
21 door, because it was in the evening, and I was
22 cooking dinner.

23 Q. So were you in the kitchen when Miss Ford came
24 to the door?

25 A. Yes.

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1 Q. All right, so how did you know she was there?

2 A. Because I heard my friend yelling and screaming,
3 and I went to the door, and that's when I had
4 seen --

5 THE COURT: Tell us everything, we
6 are in Court. Let's hear it.

7 I'm sorry, Mr. Pinsky, I know
8 you've prepped this witness in some ways --
9 well, you're supposed to. You've got to
10 tell the story. Don't just pause. You were
11 in the kitchen, he was at the door. C'mon,
12 tell us. I'm ready and waiting. We only
13 have a certain amount of time here.

14 BY MR. PINSKY:

15 Q. There you go. What happened, just let -- go
16 ahead and tell us the story?

17 THE COURT: Let's hear it.

18 A. I went to the door, because he was yelling and
19 screaming, and it was Kathie Ford. I asked her
20 to leave my property, and she told me no, she
21 refused, that it was none of my business. So
22 again I asked her to leave. William is yelling
23 and screaming to get off the property, it was
24 illegal for her to be there, and she left.

25 Q. Okay, all right. Thanks.

THE COURT - WESTRIDGE

1

2

MR. PINSKY: Pass the witness.

3

4

THE COURT: I have some questions
before you get up. We had two 341s, right?

5

MR. PINSKY: Yes, ma'am.

6

7

THE COURT: When was the 341 that
the Fords were at, when was that?

8

THE WITNESS: I believe in May.

9

THE COURT: In May?

10

THE WITNESS: Yes.

11

12

THE COURT: So from May until
October you didn't see them; they didn't
come to your house; they didn't do anything?

13

14

THE WITNESS: That's correct.

15

16

THE COURT: Miss Malin -- what were
the questions at the 341 that you said --
you said earlier that they asked you some
questions, what were those questions?

17

18

19

THE WITNESS: They didn't ask me
any questions directly in the 341 meeting;
they were asked --

20

21

22

THE COURT: Well, what did they say
in the 341?

23

24

THE WITNESS: They brought up why
my house was listed for so much money, and

25

THE COURT - WESTRIDGE

1 she wanted to get paid, meaning Kathie Ford.

2 THE COURT: So they did not ask you
3 any questions; they just simply said the
4 house needs to be sold at a certain amount
5 of money?

6 THE WITNESS: That's what I
7 remember. There was a lot of questions that
8 were asked during that meeting, and honestly
9 I don't remember all of them.

10 THE COURT: Okay, Miss Malin told
11 you to call the police; did you call the
12 police?

13 THE WITNESS: No, I didn't.

14 THE COURT: And then the marshals
15 escorted you to the car. Was Steve in the
16 parking lot, like he threatened to be?

17 THE WITNESS: No.

18 THE COURT: And when Miss Ford said
19 "none of your business," to you at your
20 house, what did you take that to mean? You
21 just testified that Miss Ford and William
22 were having an altercation at your front
23 door. You asked her to leave, and she said
24 "stay out of this, it's none of your
25 business."

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1 THE WITNESS: Right, cause she
2 didn't want to talk to me directly. She
3 wanted to talk to her brother about the --
4 about the money issue.

5 THE COURT: The money that you
6 owed, that you owed to them?

7 THE WITNESS: Yes.

8 THE COURT: Okay, your witness, Mr.
9 Greher.

10 MR. GREHER: Thank you, Your Honor.

11

12 CROSS-EXAMINATION

13 BY MR. GREHER:

14 Q. You had indicated on direct testimony that you
15 knew Mr. and Mrs. Ford for approximately seven
16 years?

17 A. Approximately, yes.

18 Q. And did you know them in both a social setting
19 and a business/financial setting, or was it just
20 business/financial setting?

21 A. It was both.

22 Q. Had they been to your house before?

23 A. Steven has, yes.

24 Q. Okay, Kathie had never been to your house
25 before?

1 A. Not to my knowledge, no.

2 Q. And you indicated there was a point in time
3 where you had some type of a relationship with
4 her brother, William Helgerman, correct?

5 A. Yes.

6 Q. For what period of time did you have that
7 relationship?

8 A. Approximately six and a half years.

9 Q. So all during the time that you knew the Fords
10 you were having your relationship with Mr.
11 Helgerman?

12 A. Correct.

13 Q. Was he living with you?

14 A. No.

15 Q. Did HE spend any nights at your house?

16 A. Yes.

17 Q. Okay, and were you married at this time,
18 separated?

19 A. To William?

20 Q. No, to --

21 THE COURT: Relevance.

22 MR. GREHER: I'll withdraw the
23 question.

24 THE COURT: Thank you.

25 MR. GREHER: Thank you.

- 1 Q. Now, you testified that there was a point in
2 time when Steve Ford lent you \$50,000, is that
3 correct?
- 4 A. Correct.
- 5 Q. And you indicated that the first \$50,000 that he
6 gave you was also to the business, or was that
7 to you personally?
- 8 A. It was to the business.
- 9 Q. Do you recall signing a promissory note?
- 10 A. No, I did not sign a promissory note.
- 11 Q. Do you recall ever seeing a promissory note that
12 purported to have your signature on it?
- 13 A. No.
- 14 Q. You never saw one?
- 15 A. No, I had seen -- I'm sorry, I had seen one
16 after the fact.
- 17 Q. Okay, so you did see a promissory note, right?
- 18 A. A note that I did not sign. I never signed a
19 promissory note.
- 20 Q. Okay, but you paid back this \$50,000, is that
21 correct?
- 22 A. The initial \$50,000, yes.
- 23 Q. Okay, and did the money from that \$50,000 come
24 from your business?
- 25 A. Yes.

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1 Q. And was it paid back in a timely manner?

2 MR. PINSKY: Objection, lack of
3 foundation.

4 Q. Well, what was your understanding of the terms
5 of repayment?

6 THE COURT: Do I need to rule, or
7 are you going to move right along?

8 MR. GREHER: I'll move right along,
9 Judge, thank you.

10 THE COURT: Thank you.

11 BY MR. GREHER:

12 Q. There came a time when there was further money
13 invested, is that correct?

14 A. Correct.

15 Q. Okay, and was that also \$50,000?

16 A. Yes.

17 Q. Was it given to you by check or by cash?

18 A. By check.

19 Q. Okay. And you stated that it was your
20 understanding that that was to be paid back when
21 homes were sold, is that correct?

22 A. Well, what the understanding was is that he
23 would receive commissions off of that \$50,000.

24 Q. What does that mean, commissions?

25 A. He was getting one percent of the houses that I

1 had sold.

2 Q. Okay. And if the one percent of the houses that
3 you sold did not total up to \$50,000, what was
4 the understanding as to how the other -- the
5 balance of that \$50,000 would be paid?

6 A. There was no discussion.

7 Q. Okay. So it was kind of a risky investment,
8 don't you think?

9 MR. PINSKY: Objection,
10 argumentative.

11 THE COURT: Sustained.

12 BY MR. GREHER:

13 Q. How much were the houses selling for?

14 MR. PINSKY: Objection, lack of
15 foundation.

16 THE COURT: Sustained.

17 Q. Well, were the houses sold?

18 MR. PINSKY: Objection, lack of
19 foundation. What houses?

20 Q. The houses that were out of the sale which Mr.
21 Ford was to receive one percent commission?

22 THE COURT: That's a better
23 question.

24 Q. Were those houses sold?

25 A. Yes.

1 Q. Were there a specific number of houses?

2 A. That we agreed upon?

3 Q. Yes.

4 A. No.

5 Q. Well, how many houses -- on how many sales was
6 Mr. Ford supposed to get a commission?

7 A. We never had a set amount.

8 Q. Okay, how many sales were there?

9 MR. PINSKY: Object to the form of
10 the question. There is no temporal
11 relationship.

12 THE COURT: He can ask those
13 questions. I just want to know where we're
14 going. I don't mind you asking the
15 questions, but where are we going; what are
16 we about here?

17 MR. GREHER: Well, I'm just about
18 done with this line of questioning, Judge,
19 if I --

20 THE COURT: Oh, is there a written
21 agreement, or was it all verbal, is that
22 what we are getting at?

23 MR. GREHER: Yes.

24 THE COURT: Was there a written
25 agreement, or was it all verbal, that's what

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1 I would like to know too.

2 THE WITNESS: It was verbal.

3 MR. GREHER: Okay.

4 BY MR. GREHER:

5 Q. There came a time that you decided that you
6 needed to file a personal bankruptcy petition,
7 is that correct?

8 A. Correct.

9 Q. Did you ever file a bankruptcy petition for your
10 business?

11 MR. PINSKY: Objection, relevance.

12 THE COURT: Overruled. I want to
13 hear the answer to this.

14 A. For my business, no.

15 THE COURT: All Points.

16 BY MR. GREHER:

17 Q. Did there come a time when you met with an
18 attorney for the purposes of discussing the
19 filing of a bankruptcy petition either for you
20 personally or for your business?

21 A. Yes.

22 Q. And do you recall when that first conversation
23 or conference was?

24 A. I believe it was January of 2007.

25 Q. And was that with somebody in Miss Malin's

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1 office?

2 A. Yes.

3 Q. Oh, did you speak to any other attorneys prior
4 to speaking to Miss Malin?

5 A. No -- yes, Tom Genova.

6 Q. Okay, at that first meeting, did you in fact
7 meet with Miss Malin?

8 MR. PINSKY: Objection,
9 attorney/client privilege. We are getting
10 into an area --

11 THE COURT: You're dancing here,
12 because you're getting close to privilege.

13 Q. At the time that you met with --

14 THE COURT: I will sustain the
15 objection, but I'll listen to the questions.

16 MR. GREHER: Thank you, Your Honor.

17 Q. At time that you met with Miss Malin did you
18 bring with you a list of all of your creditors,
19 everybody that --

20 MR. PINSKY: Objection, privilege.

21 MR. GREHER: Judge, how is that
22 possibly privilege?

23 MR. PINSKY: Communications between
24 attorney and client relating to --

25 THE COURT: For the purpose of

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1 litigation it is privileged information. I
2 am going to sustain that objection, but
3 here's a root -- I've got to think of a
4 question myself that doesn't go to privilege
5 either.

6 Are all of your creditors listed on
7 this petition?

8 THE WITNESS: Yes.

9 THE COURT: And are they the
10 business creditors too? I've looked at it
11 to see -- you said on some of them they are
12 business creditors; are your business
13 creditors also listed on this list?

14 THE WITNESS: Yes, most of them are
15 my business creditors.

16 THE COURT: Okay.

17 BY MR. GREHER:

18 Q. At time that -- did there come a time subsequent
19 to your meetings with --

20 A. Yeah, exactly.

21 Q. -- with Miss Malin or representatives of her
22 firm that you went back to the office to review
23 a bankruptcy petition that was prepared on your
24 behalf?

25 A. I don't understand the question.

1 Q. Well, before filing a bankruptcy petition did
2 you review the information that you previously
3 had given your attorneys for the purposes of
4 putting together your paperwork?

5 MR. PINSKY: That's communications,
6 Mr. Greher. That's attorney/client
7 communications.

8 Q. Well, did you review a bankruptcy petition
9 before signing it?

10 A. Yes.

11 Q. And is that the bankruptcy petition that's in
12 front of you today?

13 A. Yes.

14 Q. And at the time that you reviewed it did you
15 determine that the information contained in that
16 petition was true and accurate?

17 MR. PINSKY: Objection, to the
18 extent it calls for a legal conclusion only.

19 Q. Did you have any reason to doubt the accuracy of
20 the information that was in your petition?

21 THE COURT: Mr. Greher, will you
22 let me rule when there's an objection.

23 MR. GREHER: I'm sorry, Judge.

24 THE COURT: I mean it would just
25 make my life easier and make the record look

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1 a lot cleaner.

2 MR. GREHER: I apologize.

3 THE COURT: I sustain the
4 objection. Your second question, though, is
5 good.

6 MR. GREHER: I wish I could
7 remember it.

8 THE COURT: Basically, did you
9 review them, and when you reviewed them, did
10 you find it to be true and correct at the
11 time you did it?

12 A. Yes, according to what my attorney told me to
13 do.

14 THE COURT: That's not what we
15 asked, and that's privileged.

16 So go ahead, Mr. Greher.

17 BY MR. GREHER:

18 Q. Did you have to make any changes in the petition
19 from the time you went to review it until it was
20 actually filed?

21 MR. PINSKY: Objection.

22 THE COURT: Sustained. Don't
23 answer that question.

24 MR. GREHER: In any event, a
25 petition was filed in your behalf, and that

- 1 petition is now before you, is that correct.
- 2 A. Correct.
- 3 Q. And is Steve Ford listed as a creditor on that
- 4 petition?
- 5 A. Yes.
- 6 Q. Okay. Is Kathie Ford listed as a creditor on
- 7 that petition?
- 8 A. No.
- 9 Q. Did Kathie Ford ever lend you any money?
- 10 A. No.
- 11 Q. Now, there came a time when you testified that
- 12 you went to a 341 meeting at the Bankruptcy
- 13 Court in I guess it was May of 2007, is that
- 14 correct?
- 15 A. Correct.
- 16 Q. And we are talking about at the time when you
- 17 were in Chapter 13?
- 18 A. Yes.
- 19 Q. Okay. How did you get to the meeting that day?
- 20 A. I'm sorry?
- 21 Q. How did you get there that day?
- 22 A. I drove.
- 23 Q. And did you drive by yourself, or was your
- 24 sister with you?
- 25 A. My sister, Sandra, was with me.

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1 Q. Okay, was it her car or your car?

2 A. I don't remember.

3 Q. Could it have been her car?

4 A. It could have been, yes.

5 Q. And if it was her car, would you have driven it
6 or would she have driven it?

7 A. She would have driven it.

8 Q. Okay. Are you under any medication now that
9 impacts your ability to remember?

10 A. I've gone through several surgeries, and the
11 anesthesia from the surgeries had an effect with
12 my memory.

13 Q. When was your last surgery?

14 A. My last surgery was -- I believe August.

15 THE COURT: Of this --

16 THE WITNESS: Of '07.

17 THE COURT: Of '07.

18 BY MR. GREHER:

19 Q. So you don't have any short-term memory loss at
20 this time; it is just the surgery at the time
21 affected your memory prior to that time?

22 A. No, I have a memory problem period.

23 Q. Okay, all right. So when you got to the meeting
24 on May 30th, at 181 Church Street, were the
25 Fords already there?

- 1 A. I believe so.
- 2 Q. Okay, and in fact there were a lot of creditors
3 there, were there not?
- 4 A. There were probably about four people there,
5 yes.
- 6 Q. Okay, and were there other cases on before your
7 case was heard by the trustee?
- 8 A. I believe so, yes.
- 9 Q. Okay. Was your case in fact the last case that
10 was heard that day, do you recall?
- 11 A. I don't believe, so no.
- 12 Q. All right. In any event, there came a time when
13 you were questioned by the trustee, correct?
- 14 A. Correct.
- 15 Q. And then the trustee threw questioning open to
16 the creditors, is that correct?
- 17 A. Correct.
- 18 Q. And it was at that time that you were questioned
19 by Steve Ford and Kathie Ford and the other
20 creditors?
- 21 A. I personally --
- 22 MR. PINSKY: Objection, he
23 misstates the witness's testimony.
- 24 Q. Well, were you questioned by Steve Ford?
- 25 A. I personally don't believe I was questioned by

1 Steve Ford, no.

2 Q. Were you questioned by Kathie Ford?

3 A. No.

4 Q. Okay, were you questioned by the other
5 creditors?

6 MR. PINSKY: Objection, relevance.

7 THE COURT: I would like to hear
8 the answer.

9 A. No, all questions were directed to my attorney.

10 THE COURT: Overruled, I would like
11 to hear the question.

12 MR. PINSKY: Yes, ma'am.

13 BY MR. GREHER:

14 Q. So all the questions were addressed to your
15 attorney?

16 A. Correct.

17 Q. So did Steve Ford address questions to your
18 attorney?

19 A. Yes.

20 Q. And did Kathie Ford address questions to your
21 attorney?

22 A. Yes.

23 Q. And was it your attorney who was answering those
24 questions, or was it you who was answering those
25 questions?

1 A. It was my attorney who was answering those
2 questions.

3 Q. Okay. And then there came a time when the
4 meeting was over and you left, is that correct?

5 A. Correct.

6 Q. And then you stated that apparently something
7 happened; there was an altercation outside, is
8 that correct?

9 A. That's correct.

10 Q. Now, when you say outside, are you talking about
11 outside of the meeting room or outside of the
12 building?

13 A. Outside of the building.

14 Q. Okay. And did this altercation, or whatever it
15 was that took place, did it take place in front
16 of the building or down the block from the
17 building?

18 A. Right in front of the building.

19 Q. Okay, and tell me again what happened, if you
20 recall?

21 A. My sister, Sandra, and I had walked out of the
22 341 meeting, going outside the building, and
23 Kathie and Steve Ford were outside. My sister
24 and I were continuing to walk down the stairs,
25 and Kathie Ford was yelling and screaming --

- 1 Q. Okay, stop right there for a second. Why was
2 she yelling and what was she screaming?
- 3 A. The only thing that I recall is that she wanted
4 her money.
- 5 Q. Okay, but she never lent you any money, correct?
- 6 A. I'm sorry?
- 7 Q. But she never had lent you any money?
- 8 A. No.
- 9 Q. And what happened at that point? I think you
10 said your sister got in the middle?
- 11 A. No, that's when Steven grabbed my arm, and my
12 sister --
- 13 Q. Well, how did he grab your arm; what exactly did
14 he do? Did he just grab your arm lightly and
15 say I want to talk to you?
- 16 A. He just -- he grabbed my arm.
- 17 Q. And what did he say?
- 18 A. I want to talk to you.
- 19 Q. Okay, was he screaming at you?
- 20 A. I don't believe, so no.
- 21 Q. Did he threaten you at any time verbally?
- 22 A. Prior to grabbing me?
- 23 Q. Yeah, did he make any verbal threats to you?
- 24 A. No.
- 25 Q. Did he use any profane language, curse at you,

- 1 anything like that?
- 2 A. No.
- 3 Q. He just grabbed your arm and said I would like
4 to talk to you?
- 5 A. No, not I would like to talk to you, "I want to
6 talk to you."
- 7 Q. Okay, "I want to talk to you"?
- 8 A. Right.
- 9 Q. Okay, and what happened then?
- 10 A. That's when my sister, Sandra, got in the
11 middle.
- 12 Q. And when you say she got in the middle, did she
13 physically get between you and he?
- 14 A. She physically got in between.
- 15 Q. And what happened then; what did she say or do,
16 if you recall?
- 17 A. She told him to get his hands off of me.
- 18 Q. And did he?
- 19 A. Yes.
- 20 Q. Okay, and then what happened?
- 21 A. That's when I went inside -- well, Andrea had --
22 Malin had said to go inside.
- 23 Q. Well, when did Andrea come out; do you have a
24 recollection of that, or did it happen so fast
25 you --

- 1 A. It happened so fast.
- 2 Q. Okay. So but there came a time right after this
3 happened that you saw Andrea Malin, and she said
4 let's go back inside?
- 5 A. She demanded for my sister and I to go back
6 inside.
- 7 Q. Oh, well, what did she say exactly, do you
8 recall her words?
- 9 A. "I want you guys inside now."
- 10 Q. And you went?
- 11 A. Yes.
- 12 Q. And when you went inside, you obviously lost
13 sight of the Fords, correct?
- 14 A. Correct.
- 15 Q. Were there other creditors out on the street at
16 this time too, by the way, any of your other
17 creditors?
- 18 A. No, not that I recall.
- 19 Q. Okay, does that mean that they could have been
20 there and you don't remember?
- 21 A. I don't think that they were out there, no.
- 22 Q. So you came back inside; you lost sight of the
23 Fords, is that correct?
- 24 A. Correct.
- 25 Q. And when was the next time you saw the Fords?

- 1 A. The next time I saw the Fords was when Kathie
2 was at my house.
- 3 Q. So five months later?
- 4 A. Correct.
- 5 Q. You never saw Steve Ford again?
- 6 A. No.
- 7 Q. He didn't call you on the phone asking for
8 money?
- 9 A. No.
- 10 Q. Okay. Now, you stated, I believe, that Miss
11 Malin told you to call the police?
- 12 A. Yes.
- 13 Q. And you did not call the police?
- 14 A. I didn't, no.
- 15 Q. Did you ever call the police?
- 16 A. No.
- 17 Q. Did you ever file a report with the District
18 Attorney's office?
- 19 A. No.
- 20 Q. Were you ever advised by Miss Malin to file a
21 complaint for assault or harassment with the
22 District Attorney's office?
- 23 A. Yes.
- 24 Q. When did she advise you of that?
- 25 A. That same day.

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- 1 Q. Okay, but you didn't do so?
- 2 A. No.
- 3 Q. Any reason why?
- 4 A. More personal reasons, I didn't want it to go
5 any further than what it had already gone.
- 6 Q. You stated that Miss Malin asked the marshals to
7 come and escort you to the car, is that correct?
- 8 A. Correct.
- 9 Q. And that in fact happened?
- 10 A. Yes.
- 11 Q. How long after this incident, whatever happened,
12 did the marshals come?
- 13 A. I think about maybe five minutes, ten minutes.
- 14 Q. Okay, did you file any complaint with the
15 marshals, any type of report, anything of that
16 nature?
- 17 A. I didn't, no.
- 18 Q. Did you require any medical treatment?
- 19 A. No.
- 20 Q. Was there any bruising on your arm?
- 21 A. No.
- 22 Q. For what period of time, if you can tell us, was
23 Mr. Ford's hand on your arm?
- 24 A. Ten seconds, if I had to guess.
- 25 Q. Do you know how long ten seconds is?

- 1 A. I know how long ten seconds is, yes.
- 2 Q. And during this ten-second period was he saying
3 anything else to you, other than what you
4 previously testified he had said?
- 5 A. That's all I -- yeah, that he wanted to talk to
6 me.
- 7 Q. Okay. Just that he wanted to talk to you?
- 8 A. Um-hmm.
- 9 Q. That's the only thing he said to you during this
10 whole time, "I want to talk to you."
- 11 A. That I can remember, yes.
- 12 Q. Well, okay, having said that, you had no idea,
13 really, as to what it is he wanted to talk to
14 you about, do you?
- 15 A. No, I don't.
- 16 Q. Okay. Then the next time that we had any kind
17 of contact was five months later, to the second
18 incident that you testified to, correct?
- 19 A. Correct.
- 20 Q. And at that time you said that Mr. Helgerman was
21 in your house, correct?
- 22 A. Correct.
- 23 Q. Okay, was he living with you at that time?
- 24 A. No.
- 25 Q. Okay, what time of day was this?

1 A. I believe it was around between 6:00 and 7:00.

2 Q. At night?

3 A. Yes.

4 Q. And what was he doing there?

5 A. He was there waiting for dinner to be done.

6 Q. How often did he eat dinner at your house?

7 A. Four nights a week.

8 Q. I'm sorry?

9 A. Four nights a week.

10 Q. So you testified that you were in the kitchen

11 cooking dinner and somebody had come to the

12 door. You heard -- was there a doorbell or a

13 knock?

14 A. Yes, I heard the doorbell ring.

15 Q. So you heard the doorbell. So you're in the

16 kitchen. Did you tell Mr. Helgerman to answer

17 the door?

18 A. Yes.

19 Q. Do you recall what your words were to him?

20 A. "Answer the door."

21 Q. Okay. And the next thing you heard was

22 screaming?

23 A. Yes.

24 Q. Who was screaming?

25 A. William was screaming.

- 1 Q. Okay, and can you tell us what William was
2 saying?
- 3 A. It was mumbled, I didn't hear -- I didn't hear
4 the words he was saying. I was in the kitchen.
- 5 Q. Okay, so as a result of you hearing the
6 screaming, is that what precipitated you moving
7 from the kitchen to the door to see what was
8 going on?
- 9 A. Yes.
- 10 Q. And at that time what did you see?
- 11 A. I opened up the door and had seen Kathie.
- 12 Q. And did you hear anything that Kathie was
13 saying?
- 14 A. No, I didn't.
- 15 Q. Okay, but there came a time when she told you
16 that it was none of your business, is that
17 correct?
- 18 A. It was none of my business.
- 19 Q. Right. So did it appear to you that she was
20 involved in some type of a conversation with her
21 brother?
- 22 A. Yes.
- 23 Q. Okay. How long did this conversation take?
- 24 A. If I had to guess, five minutes.
- 25 Q. And other than Kathie telling you it's none of

1 your business, did she say anything else to you?

2 A. No.

3 Q. And then you asked her to leave, correct?

4 A. Correct.

5 Q. And she left, right?

6 A. Not when I asked her to leave, no.

7 Q. Well, how long after you asked her to leave did
8 she leave?

9 A. A few minutes later.

10 Q. But all during that time she wasn't talking to
11 you, correct?

12 A. No, she was talking to William.

13 Q. Talking to William?

14 A. Yes, about the money I owed her.

15 Q. But she was not talking to you directly about
16 anything on that date, correct?

17 A. No, she wouldn't talk to me.

18 MR. GREHER: Okay, nothing further.

19 Thank you.

20 MR. PINSKY: I have some redirect,

21 Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. PINSKY:

24 Q. Miss Westridge, you testified that Kathie Ford
25 on that day in October at your house was talking

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1 to William Helgerman about money that you owed
2 her?

3 A. Yes.

4 Q. And what did you hear her say?

5 A. The only thing that I heard was her saying that
6 she wanted her money. That's all I remember.

7 Q. And she was engaged in that conversation with
8 your boyfriend?

9 A. Yes.

10 Q. At your house?

11 A. Yes.

12 Q. In the evening?

13 A. Correct.

14 Q. Who else was in your house at the time?

15 A. My daughter, my teenage daughter, and my
16 80-year-old grandmother.

17 Q. All right, and did you fear for either your
18 safety--

19 MR. GREHER: Objection.

20 MR. PINSKY: This goes to damages,
21 Your Honor.

22 THE COURT: I want to hear Mr.
23 Greher's objection first, Mr. Pinsky.

24 MR. GREHER: Well, the objection
25 initially is on the grounds that he's

PINSKY - REDIRECT - WESTRIDGE

1 leading this witness.

2 THE COURT: He's also outside the
3 scope of cross.

4 MR. GREHER: Absolutely.

5 THE COURT: I will sustain that
6 objection.

7 BY MR. PINSKY:

8 Q. How long after you asked Miss Ford to leave was
9 it that she continued to talk with Mr.
10 Helgerman?

11 A. I guess a few minutes.

12 Q. And you said William was yelling?

13 A. Yes.

14 Q. What was the tone or volume level of Miss Ford's
15 voice?

16 MR. GREHER: I'm going to object to
17 the form of the question. I'm not sure I
18 understand it personally.

19 THE COURT: I'm going to overrule
20 your objection. I understood it. I would
21 like to hear the witness answer it.

22 A. I'm sorry, can you say that again?

23 BY MR. PINSKY:

24 Q. Mr. Helgerman was yelling; what was Miss Ford
25 doing?

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1 A. She was yelling.

2 THE COURT: That's not what you
3 asked.

4 Q. How was the --

5 THE COURT: What was the tone?

6 Q. What was the tone or the volume of Miss Ford's
7 voice?

8 THE COURT: That was the question.

9 A. She was yelling also.

10 Q. And how long had she been yelling?

11 A. Again, a few minutes.

12 Q. All right. If you would please refer to the
13 last few pages of Exhibit 1. As a matter of
14 fact, go to the very end of Exhibit 1. Do you
15 recognize this document, Miss Westridge?

16 A. This Schedule J?

17 Q. Yes, ma'am. Do you see the stamp up at the top?

18 A. Yes.

19 Q. All right, what does that say?

20 A. Amended?

21 Q. Did you submit an amended schedule in this case?

22 A. I'm not understanding what you're asking. This
23 is the 7 -- yes.

24 Q. If you would, refer to Schedule F in the amended
25 schedule, and go to page seven of eight, and the

1 second entry on that page; do you see that
2 entry?

3 A. Yes.

4 Q. And what is the name of the creditor on that
5 entry?

6 A. Steve Ford.

7 Q. And what is the consideration stated for the
8 claim of Steven Ford?

9 A. Corporate debt, no personal guaranty.

10 Q. And is the claim listed as either contingent,
11 undisputed or liquidated?

12 A. Unliquidated and disputed.

13 Q. And what's the amount of the claim?

14 A. One dollar.

15 MR. PINSKY: I'll pass the witness,
16 Your Honor.

17 RECROSS-EXAMINATION

18 BY MR. GREHER:

19 Q. If it was a corporate debt, why did you list him
20 on a personal bankruptcy?

21 A. All of my personal and business were included in
22 this Chapter 7. I didn't have a separate
23 personal and corporate.

24 Q. But you understood that you were operating your
25 business as a corporation, is that correct?

1 A. Correct.

2 Q. So if somebody told you to put all of your
3 corporate debts in your personal bankruptcy --

4 MR. PINSKY: Objection, privilege,
5 Your Honor.

6 THE COURT: Sustained.

7 Q. The yelling that you heard from the kitchen, was
8 that yelling on the part of both Mr. Helgerman
9 and Kathie Ford; were they both yelling?

10 A. Yes, but I heard William.

11 Q. And when you came out there, were you yelling as
12 well?

13 A. No.

14 Q. Did you raise your voice at all when you asked
15 Kathie to leave?

16 A. Not at all.

17 MR. GREHER: Nothing further, thank
18 you.

19 MR. PINSKY: Your Honor, we would
20 call Andrea Malin as our next witness.

21 THE COURT: You may step down.

22 THE WITNESS: Thank you.

23

24 (Witness excused.)

25

1 THE COURT: Would you get Miss
2 Malin, please.

3 MR. GREHER: Judge, if I could --

4 THE COURT: Take a break? Go
5 ahead. If you don't mind, while you're out
6 of the room, I'll just make sure Miss Malin
7 is sworn and give her name.

8 MR. GREHER: That's fine. Shall I
9 go get her?

10 THE COURT: No, we'll send someone.
11 You go.

12 MR. PINSKY: Your Honor, off the
13 record.

14 THE COURT: Yes.

15

16 (Discussion off the record).

17

18 THE COURT: Miss Malin, if you'll
19 take the witness stand, please. And let the
20 record reflect I've been waiting to get Miss
21 Malin on the witness stand for a very long
22 time. Miss Malin, you are under oath.
23 State your full name, please.

24 THE WITNESS: It is Andrea B.
25 Malin.

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1 THE COURT: And your address,
2 please, Miss Malin.

3 THE WITNESS: 1136 Route 9,
4 Wappingers Falls, New York.

5 THE COURT: And let me remind you
6 that you are under oath.

7 THE WITNESS: Thank you.

8 THE COURT: Mr. Pinsky, she's your
9 witness.

10 MR. PINSKY: Yes, ma'am.

11

12 (ANDREA MALIN, having been duly
13 sworn, testified as follows:)

14

15 DIRECT EXAMINATION

16 BY MR. PINSKY:

17 Q. Miss Malin, are you familiar with Ann-Marie
18 Westridge?

19 A. Yes, I am.

20 Q. And in what capacity are you familiar with her?

21 A. My firm, Genova & Malin, was retained to first
22 file a Chapter 7 petition for Miss Westridge,
23 which was later converted to a Chapter 13, and
24 it was at that time I took over the case.

25 Q. Very good. And did you represent Miss Westridge

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1 at the Section 341(a) creditors' meeting in the
2 Chapter 13 case?

3 A. Yes, I did.

4 Q. And at that meeting you were present at the
5 table with the trustee and the debtor and the
6 creditors?

7 A. Yes, I was.

8 Q. And can you tell the Court what transpired
9 during the meeting on that day?

10 A. Yes. Basically, I believe there were three
11 creditors there. Myself and Ann-Marie sat at
12 the table across from Mr. Sapir, the Chapter 13
13 trustee. Mr. Sapir took appearances by the
14 creditors, and of course the debtor and debtor's
15 attorney. At that time I believe -- is it --
16 Mrs. Ford started to insist that she be paid the
17 debt she was owed. She was getting louder and
18 louder. I basically informed her that we were
19 there to discuss the petition, the schedules and
20 the schedules of assets and that she was free to
21 ask Miss Westridge any questions she had
22 regarding the assets or the income as set forth
23 on the petition.

24 Mr. Sapir then began to conduct the
25 meeting. She again continued to insist that the

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1 debt be paid; that Ann-Marie was a liar; that
2 there were assets that Ann-Marie did not
3 represent appropriately on the petition.

4 Mr. Sapir reminded her that this was
5 to ask questions about the petition, and if she
6 wanted to, she could send Mr. Sapir a letter if
7 she thought she knew of any assets that were not
8 disclosed.

9 After that, firmly, I had to continue
10 to remind her that this was a 341 exam that
11 needed to go forward, that questions needed to
12 be asked, that maybe she should consult with an
13 attorney and do a 2004 examination. Mr. Sapir
14 advised her of that as well. And then we
15 finally got through the meeting, and Mr. Sapir
16 closed it.

17 Q. Very good. And how would you characterize the
18 interaction between you and Miss Ford at that
19 meeting at the table?

20 A. She was -- she was -- she was visibly upset. I
21 was again firm, because we needed to continue to
22 conduct the meeting. There were a great many
23 people already in the room, and there were other
24 cases that needed to go forward. And Mr. Sapir
25 finally took control of the meeting and quieted

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1 it down so that we could get through it, but it
2 was agitated.

3 Q. Do you recall the events that followed the
4 closure of that meeting on that day? What was
5 the next thing that you became aware of
6 involving the debtor on that day when the 341
7 meeting was held?

8 A. I asked the debtor to sit in the 341 room and
9 not leave until the creditors left. They
10 left -- because it was very heated. They left,
11 so Ann-Marie and her sister, who was with her, I
12 told them I believed it was safe for them to
13 leave, and they did leave.

14 The next thing I heard -- because I
15 stayed in the room, I had other 341 meetings
16 on -- was a great deal of screaming outside. I
17 and several other attorneys heard it, and we
18 went to the door to see what was going on. When
19 I came to the door what I saw was -- it was the
20 old 341 room, so that cement porch, I was on the
21 cement porch at the door. I looked down on the
22 sidewalk right in front of the cement porch.
23 Ann-Marie was facing this way -- sorry, I don't
24 know if that's east or west, but towards the
25 courthouse.

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1 THE COURT: West.

2 A. Oh, west. Mr. Ford had ahold of her right arm,
3 and he was --

4 Q. Let the record reflect the witness is holding
5 her right biceps.

6 A. He was screaming at her, and her sister was
7 standing in between Ann-Marie and him spread
8 with her arms full out and her legs full out as
9 if she was trying to keep him from attacking
10 her. And he was --

11 MR. GREHER: Objection. It is
12 purely a conclusion on the part of this
13 witness.

14 THE COURT: I will have to sustain
15 the objection on the attempting to protect.
16 She can describe -- the witness can describe
17 what she saw. She can't characterize what
18 it was.

19 MR. PINSKY: Yes, ma'am.

20 A. I apologize. So I told Mr. Ford that he had to
21 let her go, and he had to leave or I would call
22 the police. Mr. Ford told me that he just
23 wanted to talk to her because he wanted his debt
24 to be paid, and he wanted to work it out with
25 the debtor. I told him that he did not have the

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1 right to insist that he be paid. He had rights
2 in the Chapter 13. He had to leave and he had
3 to take his hands off of her. And I told both
4 Ann-Marie, the debtor, and her sister to come
5 back into the Court -- into the 341 room. Which
6 they did come back into the 341 room. As they
7 were coming back into the 341 room, Mr. Ford
8 stated he did not care, he would continue this
9 discussion with her and wait for her at her car
10 in the parking lot, her being the debtor.

11 At that point, once they were safely
12 in the building, I went to the marshals, and I
13 asked the marshals if we could have someone come
14 over and walk Miss Ann-Marie and her sister to
15 the parking lot so they could safely get in
16 their car.

17 Ann-Marie at that point was crying.
18 She was tremendously upset. Her sister was very
19 upset.

20 MR. GREHER: Objection as to
21 conclusion. Once again, it is a
22 characterization.

23 THE COURT: Sustained.

24 MR. PINSKY: The witness can
25 testify as to what she observed.

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1 THE COURT: She observed her being
2 upset.

3 A. Correct.

4 THE COURT: And then your objection
5 to what else?

6 MR. GREHER: Well, I think we need
7 to --

8 THE COURT: She's crying and she's
9 upset; we heard that. What else?

10 MR. GREHER: Nothing, Judge.

11 THE COURT: Okay.

12 A. One of the marshals did agree to come over and
13 did in fact walk Ann-Marie and her sister to the
14 car.

15 Q. Yes, ma'am. When you came out of the building
16 at 181 Church Street and stepped into this
17 event, did you have an opportunity to observe
18 anything that Kathie Ford was doing or saying?

19 A. Kathie Ford was standing behind Steven Ford, and
20 she was screaming that she was going to be paid,
21 that Ann-Marie ripped her off, and all sorts of
22 vulgarities. But it was so intense that I did
23 not hear exactly what she said.

24 THE COURT: The Court would like
25 for you to -- okay, the Court wants you to

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1 be specific.

2 THE WITNESS: Well, I know she was
3 screaming at her that she was going to be
4 fucking paid, and that Ann-Marie was a
5 bitch.

6 Q. All right, and following that series of events
7 that you just described, did you have the
8 occasion, sometime in May, June, July, to file a
9 motion for sanctions?

10 A. Yes, I did.

11 Q. And do you recall the date of that motion?

12 A. I want to say I recall --

13 Q. Withdraw the question.

14 A. Okay, probably November.

15 Q. Miss Malin, in connection with the motion for
16 sanctions that you prepared, did you incur fees
17 for the time that you spent and costs for any
18 disbursements that your firm may have incurred?

19 A. Yes, I did.

20 Q. And did you prepare time records with respect to
21 those fees and expenses?

22 A. Yes, I did.

23 MR. PINSKY: Your Honor, may I
24 approach the witness?

25 THE COURT: Certainly.

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1 Q. I'm handing you what's been marked as Exhibit 5.

2 Do you recognize that document?

3 A. Yes, I do.

4 Q. And what is it?

5 A. It's the time sheets that I kept in regard to
6 the case.

7 Q. And those time entries, are those
8 contemporaneous entries of time that you spent
9 working on the motion for sanctions and its
10 prosecution?

11 A. Yes.

12 Q. And is that a true and correct copy of those
13 time entries?

14 A. Yes, it is.

15 Q. Are there disbursements reflected in that
16 document as well as fees for time spent?

17 A. Yes, there are.

18 Q. Is that a true and accurate copy of
19 contemporaneous entries of disbursements by you
20 or someone at your firm in this matter?

21 A. Yes, that is.

22 MR. PINSKY: I move the
23 introduction of Exhibit 5, Your Honor.

24 THE COURT: Any objection?

25 MR. GREHER: Well, Judge, as long

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1 as I have an opportunity at some point to
2 either cross-examine Miss Malin with respect
3 to the items or submit opposition to it, I
4 would have no objection.

5 THE COURT: We will wait until such
6 time as you can do that to either allow or
7 disallow.

8 MR. GREHER: Okay.

9 MR. PINSKY: Very good, Your Honor.

10 THE COURT: Just don't let me
11 forget it.

12 MR. PINSKY: Your Honor, may I
13 approach the witness again?

14 THE COURT: Yes.

15 Q. Miss Malin, I hand you what's been marked for
16 identification as Exhibit 2 and ask you if you
17 recognize that document?

18 A. Yes, I do.

19 Q. And what is it?

20 A. This is the motion that the firm filed on behalf
21 of Miss Westridge under 362.

22 Q. And the 362 were --

23 A. Oh, I'm sorry, I'm sorry, the motion objecting
24 to claims under 502.

25 Q. And is Mr. Ford's claim included in that

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1 objection to claims?

2 A. Yes, it is, claim 9.

3 Q. And what is the basis for the objection to Mr.
4 Ford's claim?

5 A. The basis for the objection to Mr. Ford's claim
6 is that Mr. Ford was not in fact owed a debt.
7 And if he were owed a debt, it would have been a
8 debt between Mr. Ford and a corporation that was
9 owned by Miss Westridge, part of the filing.

10 Q. Was a hearing ever held on that motion with
11 respect to the Ford claim specifically?

12 A. Yes, there were several hearings held on this,
13 because it was also --

14 MR. GREHER: Objection at this
15 time. Judge, I'm going to object to the
16 line of questioning on the grounds of
17 relevance to this particular proceeding.

18 THE COURT: I'm going to overrule
19 it, unless you can tell me something besides
20 relevance.

21 MR. GREHER: Well, Judge, I think
22 relevance is everything that you need to
23 know with respect to this. The motion is
24 for sanctions based upon two specific
25 instances. We are going beyond that motion

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1 at this point in time, introducing testimony
2 that has nothing to do with the issues that
3 you have to determine today.

4 MR. PINSKY: May I respond, please?

5 THE COURT: Yes, please. No,
6 respond to me, not her.

7 MR. PINSKY: Yes, Your Honor. The
8 objection to claim recites grounds which
9 demonstrate the extent to which the Fords
10 were attempting to go to collect money that
11 this debtor didn't even legally owe them.
12 Notwithstanding the fact that it was
13 originally scheduled as a personal
14 obligation as part of debtor's Exhibit 1,
15 there is an amended schedule wherein the
16 Ford claim is clearly listed as a corporate
17 disputed contingent debt. The debtor had to
18 file a motion and go through a series of
19 preliminary hearings in front of this Court
20 before Mr. Ford withdrew his motion, rather
21 than actually go to an evidentiary hearing.
22 And it is relevant because --

23 THE COURT: I'm going to allow it.

24 MR. GREHER: Okay, note my
25 exception.

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1 THE COURT: Thank you.

2 BY MR. PINSKY:

3 Q. And Miss Malin, do you recall whether or not the
4 Ford claim was withdrawn?

5 A. Yes, I was told that it was withdrawn by Mr.
6 Greher. That after --

7 MR. GREHER: Objection, calls for a
8 simple yes or no answer, Judge.

9 THE COURT: It does. Answer the
10 question.

11 A. Yes, it was withdrawn.

12 Q. And when was it withdrawn; under what
13 circumstances was it withdrawn?

14 A. It was --

15 MR. GREHER: Well, Judge, at this
16 point in time I would like to make an
17 objection as well. Now we are talking about
18 attorney/client privilege on the other side.

19 THE COURT: I think so too. It is
20 withdrawn. We now know it's withdrawn. We
21 know who went through the effort to do it.

22 MR. PINSKY: Yes, ma'am.

23 THE COURT: And it was withdrawn.

24 MR. PINSKY: And actually, if you
25 would allow me to connect up.

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1 THE COURT: Well, you ask me the
2 question, and then we can see if Mr. Greher
3 will object.

4 MR. PINSKY: Very good, Your Honor.

5 And the question would be: Was the
6 claim withdrawn immediately prior to a fully
7 briefed hearing, evidentiary hearing on the
8 Ford claim?

9 MR. GREHER: I would object to that
10 question. It also goes to attorney/client
11 privilege.

12 And furthermore, Your Honor, Miss
13 Malin -- we really don't need you shaking
14 your head. We are going to reach a point,
15 if we continue this line of questioning,
16 where I'm going to have to ask for an a
17 adjournment, because then you're going to be
18 forcing me to testify in this proceeding,
19 because absent that we are going to get into
20 areas of speculation.

21 THE COURT: I think what we have on
22 the record -- I can take judicial notice of
23 when the things were filed and when the
24 claim was withdrawn.

25 MR. PINSKY: Very good, Your Honor.

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1 THE COURT: Because it's on the
2 record.

3 MR. PINSKY: And we'd respectfully
4 ask the Court to take judicial notice of the
5 briefing.

6 THE COURT: That's sufficient.

7 MR. PINSKY: Thank you.

8 BY MR. PINSKY:

9 Q. What is your hourly billing rate?

10 A. My hourly billing rate at the firm is \$275.

11 Q. \$275. And how many hours have you spent so far
12 today in addition to the time reflected in your
13 time records at this hearing?

14 A. I've been here since 9:30 this morning, and I
15 spent approximately 45 minutes reviewing the
16 file last night.

17 MR. PINSKY: Very good. Thank you.

18 Pass the witness, Your Honor.

19 THE COURT: Okay, Mr. Greher.

20 CROSS-EXAMINATION

21 BY MR. GREHER:

22 Q. Well, you're here as a witness today, is that
23 correct?

24 A. Yes, I am.

25 Q. And your intention -- was it your understanding

1 that your time could be billed to somebody with
2 respect to your appearances today?

3 A. I had no understanding of any billing, and I
4 have not created a bill for this time today.

5 Q. Have you been paid any monies for the work you
6 have done to date on the sanctions motion?

7 A. No.

8 Q. Now, the 341 meeting that you attended with the
9 debtor, that was taped, was it not?

10 A. That was -- I'm sorry?

11 Q. It was on tape, it was a taped meeting?

12 A. I believe it would have been.

13 Q. Did you ever subpoena the tape?

14 A. I did not.

15 Q. Did you ever hear the tape?

16 A. I did not.

17 Q. Okay. Did you ever advise your client to file
18 any criminal charges as a result of what you
19 observed or what you were told happened?

20 A. I did say to Mr. Ford that I would call the
21 police, yes.

22 Q. Okay, did you call the police?

23 A. No, I didn't, because the guards came over and
24 helped me.

25 Q. Did you file any charges with the District

1 Attorney's office?

2 A. No.

3 Q. Did you recommend or suggest that Miss Westridge
4 file any such charges?

5 A. I recommended to Miss Westridge, after she told
6 me about the altercation at the house, at her
7 personal residence, that if it were to occur
8 again she should call the police immediately, so
9 that she could be protected, because she had a
10 minor child there. And also that it might be
11 something she would want to determine whether or
12 not she needed a restraining order --

13 Q. Is that a yes or no to the question?

14 A. Well, I don't know what you mean, accept legal
15 charges. If you'd like to ask me --

16 THE COURT: Miss Malin, please do
17 not argue with the attorney.

18 THE WITNESS: I'm sorry.

19 Q. Do you have any personal knowledge of what may
20 or may not have taken place at Miss Westridge's
21 house in October of 2007?

22 A. No.

23 Q. Now, do you happen to recall whether or not the
24 Fords were already in the 341 room at the time
25 Miss Westridge arrived at that 341 meeting?

1 A. I believe they were, because Miss Westridge told
2 me that they were there.

3 Q. Okay, and were there other creditors there as
4 well?

5 A. Yeah.

6 Q. Other creditors in the Westridge matter there?

7 A. Yeah, there was one other. I believe he was in
8 a wheelchair.

9 Q. Now, at the end of Mr. Sapir's questioning of
10 Miss Westridge, did he ask whether or not any
11 creditors had any questions?

12 A. Yes, he did.

13 Q. And at that time did either Mr. or Mrs. Ford ask
14 any questions?

15 A. Mr. Ford did not talk at the 341 meeting, as I
16 recall.

17 Q. Okay, what about Mrs. Ford?

18 A. Mrs. Ford asked questions more towards when she
19 could expect to collect the debt, as I recall,
20 not specific questions as to the schedules.
21 Except I do believe she might have advised Mr.
22 Sapir that she believed the house was not -- the
23 value of the house on the petition did not
24 reflect what she believed the value to be.

25 Q. Okay. And before the case was converted to

1 Chapter 13, the matter was handled by your
2 partner, was it not?

3 A. Yes, Mr. Genova.

4 Q. Oh, so you had no contact with the file until
5 such time as it was converted to Chapter 13, is
6 that correct?

7 A. No. I had contact with the file after the
8 initial 341 in the 7.

9 Q. Okay. Did you have any meetings -- I'm not
10 going to ask you what was said, but did you have
11 any meetings with Miss Westridge before the 341
12 meeting?

13 A. Before the Chapter 7 341 or before --

14 Q. Before the Chapter 13 341 meeting?

15 A. I had meetings with her, yes.

16 Q. And you had opportunities and occasions to
17 review the files, correct?

18 A. Yes.

19 Q. And in your review of the files and in your
20 conversations with Miss Westridge did you have
21 any understanding as to whether or not Kathie
22 Ford was a creditor of Miss Westridge?

23 MR. PINSKY: Objection --

24 THE COURT: Sustained.

25 MR. PINSKY: -- on the basis of

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1 privileged communications.

2 THE COURT: Sustained. The record
3 is the record on that. We've got a filing.

4 MR. GREHER: Okay.

5 BY MR. GREHER:

6 Q. Now, the questions that were asked at the 341
7 meeting by Miss Ford, were they directed to you,
8 were they directed to your client, or were they
9 directed to Mr. Sapir, if you recall?

10 MR. PINSKY: Objection. I believe
11 it mischaracterizes the witness's testimony.
12 I believe she testified that there weren't
13 questions; they were statements.

14 Q. Were there any questions -- was the questions --

15 THE COURT: Were there any
16 questions from Miss Ford?

17 A. The only questions that I recall is when was she
18 going to be paid.

19 Q. Okay, and to whom was that question directed?

20 A. I don't know if it was directed to anybody in
21 general, but she was just stating it.

22 Q. Okay. Now, I believe you testified that after
23 the meeting you asked your client to stay for a
24 minute or two to let the creditors leave?

25 A. Yes.

1 Q. And was it at that point, or shortly thereafter,
2 that she in fact left?

3 A. Yes.

4 Q. Okay. And how long after she left the room did
5 you hear what you've characterized as some type
6 of a commotion?

7 A. I would have to say a couple of minutes.

8 Q. Okay. So she left the room. There was no noise
9 for a couple of minutes, and then you heard
10 whatever it is you heard?

11 A. Well, I'll have to just tell you, I sat in the
12 front row, because I had several 341s on, and I
13 always sit in the front row. Miss Westridge sat
14 behind me. So the exact amount of time it took
15 her to actually calm down and leave I don't
16 know. But I know from the time I sat down, it
17 was a couple of minutes before I heard the
18 screaming.

19 Q. Then you went outside and you stood on the
20 stoop, on the steps?

21 A. Yeah, I didn't go down, I opened up the door and
22 stood in the doorway on the stoop.

23 Q. Okay. Incidentally, is there a parking lot in
24 front of that courthouse, in front of the
25 meeting room?

- 1 A. Planned Parenthood's parking lot.
- 2 Q. Okay.
- 3 A. And there's also the other parking lot.
- 4 Q. The municipal lot on the corner, correct?
- 5 A. Yes.
- 6 Q. As you come out the door and you make a left
- 7 turn, there's a municipal lot on the corner of
- 8 Academy and Church, correct?
- 9 A. Correct, there's also one in the plumber
- 10 business, which is right next to the Planned
- 11 Parenthood.
- 12 Q. Right, and there's a parking lot in back of the
- 13 341 room?
- 14 A. That is correct.
- 15 Q. And there's a further parking lot across Cannon
- 16 Street, a municipal lot, correct?
- 17 A. That is correct.
- 18 Q. You had no idea where your client had parked,
- 19 did you?
- 20 A. She parked in the Academy Street parking lot.
- 21 Q. And how do you know that?
- 22 A. Because she told me.
- 23 Q. When did she tell you that?
- 24 A. We had discussed where to park prior to the
- 25 hearing, because we needed to make sure that our

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1 cars weren't getting towed and booted and that
2 kind of thing, as they were behind the building.

3 Q. Okay. Now, in furtherance of this sanctions
4 motion you submitted an affidavit, did you not?

5 A. I believe I did, yes -- or I believe it was an
6 affirmation.

7 Q. Okay. In that affirmation did you set forth the
8 language that you testified to here in Court
9 today, fucking bitch, things of that nature, was
10 that in your application?

11 THE COURT: Mr. Pinsky has the --

12 MR. PINSKY: Your Honor, that
13 document is available to counsel. It's not
14 on the exhibit list. If it would help Miss
15 Malin refresh her recollection, a copy can
16 be provided to her.

17 MR. GREHER: I have no objection --

18 THE COURT: With a copy being
19 provided.

20 MR. GREHER: With letting -- if he
21 wants to let his witness refresh her
22 recollection.

23 MR. PINSKY: May I approach the
24 witness, Your Honor?

25 A. I've reviewed it.

1 BY MR. GREHER:

2 Q. I'm sorry?

3 A. I've reviewed it. The question is I did not put
4 in here the term fucking nor did I put in the
5 term bitch.

6 Q. Okay. There came a point in time during this
7 incident out on the sidewalk that you asked your
8 client to come back inside?

9 A. Yes.

10 Q. Okay. And how long a period of time were you
11 out there observing whatever it was that you
12 observed?

13 A. A couple of minutes.

14 Q. And for what period of time did you observe Mr.
15 Ford have his hand on your client's arm?

16 A. I would say that was probably a minute.

17 Q. So for a minute he was holding onto her?

18 A. Yeah.

19 Q. And what was she doing during that minute?

20 A. She was crying and had her head bowed down
21 because he was screaming in her face.

22 Q. Did she try to remove the hand?

23 A. Not that I saw.

24 Q. And in any event, you did not interpose yourself
25 physically into whatever it was that was taking

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1 place?

2 A. Absolutely not.

3 Q. Okay. And there came a point in time that you
4 contacted the marshals, is that correct?

5 A. Correct.

6 Q. Now, were they in the building at the time, or
7 did you have to go across the street?

8 A. I had to go across the street.

9 Q. And when you went across the street, where were
10 Mr. and Mrs. Ford?

11 A. I believe that they had -- when I actually went
12 across the street, they were walking on the
13 sidewalk in front of the 341 room.

14 Q. Okay. And when the marshals came back, were the
15 Fords still there?

16 A. I did not witness them there, no.

17 MR. GREHER: Okay, I have nothing
18 further, thank you.

19 THE COURT: Any redirect?

20 MR. PINSKY: None. We would,
21 however, move the introduction of Exhibit 2
22 at this time.

23 MR. GREHER: Well, I previously
24 raised an objection to it, and I think you
25 already ruled on it.

1 THE COURT: Basically I've ruled on
2 it. It is judicial notice. It's on the
3 docket.

4 MR. PINSKY: Very good, Your Honor,
5 I just -- I hadn't moved it into evidence.

6 THE COURT: And the withdrawal, I
7 will take judicial notice of it.

8 You may be excused.

9 THE WITNESS: Thank you, Your
10 Honor.

11 THE COURT: Even though I didn't
12 get to ask the questions I needed to ask.

13 THE WITNESS: Should I leave those
14 there?

15 THE COURT: If you'll hand those
16 back to Mr. Pinsky, please.

17
18 (Witness excused.)

19
20 THE COURT: Who do you the want
21 next, Mr. Pinsky?

22 MR. PINSKY: Your Honor, I would
23 call Sandra Raymond next.

24 THE COURT: Miss Malin, do you mind
25 asking Miss Raymond to come in, please.

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1 MS. MALIN: Sure.

2 THE COURT: And Miss Malin is
3 excused either to go or to stay in the
4 courtroom.

5 MR. GREHER: I have no problems
6 either way, Judge.

7 THE COURT: Miss Malin, your
8 choice.

9 MR. GREHER: As long as we are not
10 being charged for her sitting here.

11 THE COURT: I don't think she'll
12 charge you for her time sitting here.

13 If you'll please come around. Let
14 me remind you that you're under oath. And
15 if you will tell us your full name.

16 THE WITNESS: Sandra Raymond.

17 THE COURT: And your address,
18 please.

19 THE WITNESS: P.O. Box 165,
20 Johnson, New York 10933.

21 THE COURT: It's that microphone I
22 need you speak into. And you can sit down.
23 Would you please spell your last name.

24 THE WITNESS: R-A-Y-M-O-N-D.
25

PINSKY - DIRECT - RAYMOND

1 (SANDRA RAYMOND, previously duly
2 sworn, testified as follows:)

3 DIRECT EXAMINATION

4 BY MR. PINSKY:

5 Q. Miss Raymond, are you familiar with the debtor
6 Ann-Marie Westridge?

7 A. Yes, I am. That's my sister.

8 Q. Very good. And you're aware that she's in a
9 bankruptcy case?

10 A. Yes, I am.

11 Q. And did you attend any meetings in the
12 bankruptcy case with her?

13 A. Yes, I did.

14 Q. And what meeting did you attend, as far as --

15 A. Her creditors' meeting.

16 Q. Creditors' meeting. And who was present at that
17 creditors' meeting, if you recall?

18 A. A whole table full of people, including Kathie
19 and Steve.

20 Q. Kathie and Steve Ford?

21 A. Yes.

22 Q. And when the meeting was over with, what did you
23 do?

24 A. We left -- tried to leave.

25 Q. Who is we?

PINSKY - DIRECT - RAYMOND

1 A. Myself and my sister, Ann-Marie Westridge.

2 Q. Please tell us what happened. You got up and
3 what?

4 A. We was walking out the door of the courthouse
5 where we was at, and we was coming down the
6 stairs. Kathie was yelling that she wanted her
7 money -- word from word was "I want my fucking
8 money," and she kept yelling and yelling.
9 Steve -- I said to Ann-Marie, c'mon, just keep
10 walking. We tried to keep walking. Steve was
11 to the right of Ann-Marie, grabbed her arm.

12 Q. And let the record reflect the witness grabbed
13 her biceps. So please continue?

14 A. Yes, it was actually her right arm, because he
15 was on the right-hand side of her. I was on the
16 left-hand side. Kathie was above me on a step,
17 yelling down. We kept walking. When Steve
18 grabbed Ann-Marie, he said that they wanted to
19 talk to her. Andrea and half the courthouse
20 came out to find out what all the yelling was
21 about. Andrea asked us to come back inside. I
22 had taken my arm to try and get Steve's hand off
23 my sister's biceps, and Andrea was asking us to
24 come in. We went back inside where there was a
25 comment made that they would be waiting out in

GREHER - CROSS - RAYMOND

1 the parking lot when we came out. That's when
2 Andrea asked the bailiff, whoever was there, to
3 walk us, escort us out to the car.

4 Honestly, it probably seemed like an
5 hour -- it was probably only a few minutes. It
6 seemed like forever. And we waited inside and
7 we went out to the parking lot; no one was
8 there, so we left.

9 Q. Did you have an opportunity to observe Miss
10 Westridge while this was happening?

11 A. She was upset.

12 Q. And what did you observe, what did you see?

13 A. Umm, other than her being upset, you know,
14 crying, that was about it.

15 MR. PINSKY: I pass the witness.

16 Thank you, Your Honor.

17 THE COURT: Mr. Greher.

18 MR. GREHER: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. GREHER:

21 Q. Did you know Steve and Kathie Ford prior to the
22 day you went to Bankruptcy Court?

23 A. I don't know them personally. I know of them.
24 I know from seeing them, but that's -- again, I
25 don't know them personally, no.

GREHER - CROSS - RAYMOND

1 Q. Now, were you there that day for moral support;
2 why were you there?

3 A. I was there because actually I was one of the
4 creditors as well.

5 Q. And did you in fact -- did you drive your sister
6 there, or did she drive you there, did you come
7 separately?

8 A. No, I drove her there, because the last meeting
9 I didn't attend to she was attacked verbally --

10 Q. By who?

11 A. -- that's why --

12 Q. By who?

13 A. Steve and Kathie and everybody else that they
14 had brought that day.

15 Q. Well, you weren't there, so you don't know what
16 happened?

17 A. And that's why I said I don't know exactly --

18 THE COURT: You asked the question,
19 Mr. Greher. You got an answer.

20 MR. GREHER: Okay.

21 Q. Well, you weren't there that day at the first
22 meeting, right?

23 A. No, I was not.

24 Q. So you don't know what happened there that day,
25 right?

1 A. No, but I was there the second day, because --

2 Q. All right, that's not the question.

3 A. Okay.

4 Q. So you drove your sister that day, right?

5 A. Yes, I did.

6 Q. And where did you park --

7 THE COURT: You opened the door,

8 Mr. Greher.

9 Q. Where did you park?

10 A. I parked in the municipal building parking lot
11 that was about a hundred feet from the building.

12 Q. And were there -- did you happen to observe how
13 many parking lots there were in the area?

14 MR. PINSKY: Objection, relevance.

15 A. No, actually, I didn't. That's the first time I
16 was in Poughkeepsie.

17 THE COURT: When this man stands
18 up, you don't talk until I say so.

19 THE WITNESS: Okay.

20 THE COURT: Sustained.

21 BY MR. GREHER:

22 Q. Now, when you went outside after the meeting,
23 you said Kathie was on the step, is that
24 correct; were you past her already at that
25 point; were you already on the sidewalk?

GREHER - CROSS - RAYMOND

1 A. We was coming down the steps.

2 Q. When you claim that Steve grabbed your sister,
3 was she on the steps at that time, or was she on
4 the sidewalk at that time?

5 A. We was down on the sidewalk at that time.

6 Q. And was Steve on the sidewalk at that time?

7 A. Yes, he was.

8 Q. And Kathie was behind you on the stairs?

9 A. Yes.

10 Q. They weren't together?

11 A. No.

12 Q. And for what period of time did you observe
13 Steve have his hand on your sister's arm?

14 A. Again, like I said before, it seemed like a long
15 time. Honestly, I don't know. It seemed like a
16 long time. I don't know.

17 Q. Could it have been a second or two?

18 A. It could have been 30 minutes.

19 MR. PINSKY: Objection, calls for
20 speculation.

21 A. It felt like it.

22 THE COURT: Remember, when that man
23 stands, you don't answer.

24 THE WITNESS: Okay, I'm sorry.

25 THE COURT: Mr. Greher, I will

GREHER - CROSS - RAYMOND

1 sustain the objection on that because she's
2 already testified.

3 MR. GREHER: Thank you, Judge.

4 BY MR. GREHER:

5 Q. Now, did you engage in any conversation with
6 Kathie Ford at that time?

7 A. No, I did not.

8 Q. Were you screaming or saying anything to anybody
9 at that time?

10 A. No, the only thing I was telling my sister was
11 let's go.

12 Q. Okay, so the only words that came out of your
13 mouth during this whole incident was let's go?

14 A. Yes.

15 Q. And did you observe any conversations between
16 Steve and your sister?

17 A. When he was grabbing her, he was like -- we want
18 to talk to you, and Kathie was yelling,
19 that's --

20 Q. Other than we want to talk to you or I want to
21 talk to you, did Steve say anything?

22 A. Not that I can recall. Like I said, the only
23 thing I kept hearing was yelling from Kathie,
24 and --

25 Q. Why was she yelling?

GREHER - CROSS - RAYMOND

1 A. Because she wanted --

2 Q. What was she yelling, do you know the words, do
3 you remember the words?

4 A. The words were "I want my fucking money."
5 That's what she kept saying is "I want my
6 fucking money." Steve grabbed her and --

7 THE COURT: You stood up.

8 THE WITNESS: I feel like a puppet
9 here.

10 MR. PINSKY: Please continue, go
11 ahead. The witness is entitled to answer
12 the question. That's why I stood up. You
13 can continue your answer. Do you
14 remember --

15 THE WITNESS: What was the
16 question?

17 MR. GREHER: I'll go on. It doesn't
18 matter.

19 THE COURT: We heard what she had
20 to say.

21 BY MR. GREHER:

22 Q. Were there any other people on the sidewalk at
23 that time, other than you and your sister and
24 Steve and Kathie Ford?

25 A. There was a lot of people when the yelling --

GREHER - CROSS - RAYMOND

1 when Andrea came out, all the courthouse came
2 out.

3 Q. Before that, were there any other creditors out
4 on the street at this time?

5 A. No.

6 MR. GREHER: Okay, nothing further.
7 Thank you.

8 THE COURT: Any redirect?

9 MR. PINSKY: No, Your Honor.

10 THE COURT: Very good. May we
11 excuse this witness, or the witness can stay
12 in the courtroom?

13 MR. GREHER: I would like her
14 excused.

15 THE COURT: Okay.

16 MR. PINSKY: If you could step
17 down, Miss Raymond, and wait outside. Thank
18 you very much.

19

20 (Witness excused.)

21

22 MR. PINSKY: And, Your Honor, we
23 would call William Helgerman next.

24 THE COURT: Do you know who he is?

25 THE WITNESS: Yes, I do.

1 THE COURT: Would you please ask
2 him to come in?

3 THE WITNESS: I will.

4 THE COURT: Thank you.

5 Mr. Greher, do you need a break?

6 MR. GREHER: I'm fine. Thank you,
7 Judge.

8 THE COURT: The Court will take a
9 break at 12:30.

10 This is your last witness, Mr.
11 Pinsky?

12 MR. PINSKY: Yes, it is, Your
13 Honor.

14 THE COURT: Come in, sir, and if
15 you'll come to the witness stand, please.

16 Mr. Greher, let me ask you a
17 question. He's also your witness.

18 MR. GREHER: Well, I put him on the
19 list, because I wasn't sure that he was
20 going to be here.

21 THE COURT: Okay, because I was
22 wanting to know what we were going to do --
23 you can just sit down right here. I just
24 wanted to know what we wanted to do about
25 that, because what we might have done is

1 then gone into your direct of him. But if
2 you're just going to do cross, that's fine.

3 MR. GREHER: Exactly.

4 THE COURT: Okay, that's fine then.

5 Let me remind you you're under
6 oath.

7 THE WITNESS: Um-hmm.

8 THE COURT: State your full name.

9 THE WITNESS: William M. Helgerman.

10 THE COURT: And Mr. Helgerman,
11 what's your address, please?

12 THE WITNESS: It is P.O. Box 126.

13 THE COURT: I need a street
14 address.

15 THE WITNESS: Route 6, Greenville,
16 New York.

17 THE COURT: And zip code there?

18 THE WITNESS: I have no clue.

19 THE COURT: Do you get your mail at
20 that address?

21 THE WITNESS: No, I get my mail at
22 the P.O. box.

23 THE COURT: Now then give us the
24 P.O. box too.

25 THE WITNESS: P.O. Box 126,

PINSKY - DIRECT - HELGERMAN

1 Westtown, New York 10998.

2 THE COURT: Very good. He's your
3 witness.

4 MR. PINSKY: Thank you, Judge.

5

6 (WILLIAM H. HELGERMAN, having been
7 previously duly sworn, testified as
8 follows:)

9

10 DIRECT EXAMINATION

11 BY MR. PINSKY:

12 Q. Mr. Helgerman, are you familiar with Ann-Marie
13 Westridge?

14 A. Yes.

15 THE COURT: You can take your
16 shades off your head, please.

17 Q. And how is it that you know her?

18 A. Former girlfriend.

19 Q. All right. And were you -- are you familiar --
20 strike that. Are you familiar with Steven and
21 Kathie Ford?

22 A. Yes.

23 Q. And how do you know them?

24 A. Steve Ford is my brother-in-law; Kathie Ford is
25 my sister.

PINSKY - DIRECT - HELGERMAN

1 Q. And how would you describe your relationship
2 with Kathie Ford?

3 MR. GREHER: Objection to the form
4 of the question.

5 THE COURT: Tell me why.

6 MR. GREHER: It is too vague for
7 this witness to give a specific answer to
8 the question. I don't -- I'm not sure I
9 understand it.

10 MR. PINSKY: If I make it more
11 specific, I'm going to get a leading
12 objection.

13 THE COURT: Yes, I was going to
14 say -- yes, exactly. I'm going to overrule
15 your objection, because I would like to hear
16 the answer too. I think it goes to the
17 credibility of this witness.

18 A. It's been a hate-hate relationship most of our
19 life. We are brother and sister, but it's been
20 a hate-hate relationship most of our life.

21 Q. Are you -- strike that. Did you have a meeting
22 or an encounter with Kathie Ford at some point
23 at Ann-Marie Westridge's house?

24 A. Yes.

25 Q. And please tell us how that meeting transpired;

PINSKY - DIRECT - HELGERMAN

1 what happened?

2 A. Miss Ford came to the house, Ann Marie's house.
3 Knocked on the door, I answered the door. She
4 wanted to know about her money. She wanted to
5 know what to do about her money. She wanted to
6 know about -- you know, she's not getting paid,
7 what's her next step. She wanted to know what
8 to do. I had no answers. I told her it's
9 illegal for her to be there. It's against the
10 law. She needs to leave. She said go ahead,
11 call the cops, have me arrested. She refused to
12 leave.

13 Q. What did you do next?

14 A. Words were exchanged, tempers might have flared,
15 and she left. She finally left, and I have not
16 spoken to her since.

17 Q. Mr. Helgerman, do you live or did you live at
18 that time at Ann-Marie Westridge's house?

19 A. No, never have.

20 Q. Where did you live at that time?

21 A. I live above Carmine's Restaurant on Route 6 in
22 Greenville.

23 Q. In Greenville. And did your sister know where
24 you lived?

25 A. Yes.

PINSKY - DIRECT - HELGERMAN

- 1 Q. How do you know she knew?
- 2 A. Because my family was over there once before.
- 3 Mr. Ford had been to my house when I first moved
- 4 into it.
- 5 Q. Do you have a cell phone?
- 6 A. Yes.
- 7 Q. Did you have a land line?
- 8 A. No.
- 9 Q. Did you ever call your sister on your cell
- 10 phone?
- 11 A. No.
- 12 Q. Did you ever give her your number?
- 13 A. They've always had my number.
- 14 Q. All right, sir. On the day that Miss Ford came
- 15 to Miss Westridge's house and you had this
- 16 interaction, did you get a telephone call from
- 17 Miss Ford --
- 18 A. No.
- 19 Q. -- before she came?
- 20 A. No.
- 21 Q. Did you get a telephone call from Miss Ford the
- 22 day before she came?
- 23 A. No.
- 24 Q. The week before she came?
- 25 A. No.

GREHER - CROSS - HELGERMAN

1 Q. At any time before she came?

2 A. No.

3 MR. PINSKY: Pass the witness.

4 THE COURT: Mr. Greher.

5 CROSS-EXAMINATION

6 BY MR. GREHER:

7 Q. What kind of vehicle did you have at the time of
8 this incident?

9 A. What kind of vehicle?

10 Q. Yes.

11 A. F-250 Ford, super duty.

12 Q. And was it parked out in front of the house?

13 A. No, it was parked out behind the house.

14 Q. Behind the house?

15 A. Yes.

16 Q. Is there a parking lot behind the house?

17 A. Yes, there was.

18 MR. PINSKY: Objection, relevance.

19 THE COURT: It's answered. If
20 you're going to go that line of questioning,
21 though, I want know what you're trying to
22 do.

23 MR. GREHER: The implication has
24 been raised by Mr. Pinsky that there would
25 have been no way for my client to know that

1 Mr. Helgerman was at this house at that
2 time. That's the implication he's raised --
3 at least that's the implication that I
4 believe he's raised.

5 THE COURT: Okay.

6 BY MR. GREHER:

7 Q. Are you here voluntarily today or by subpoena?

8 A. Voluntarily.

9 Q. And when did you break off your relationship
10 with Miss Westridge?

11 A. Seven and a half months ago.

12 Q. And what were you doing at the house that night?

13 A. At the time we were still together.

14 Q. Were you living there?

15 A. No, I've never lived there.

16 Q. So you were there because you're there every
17 day?

18 A. Because it's my girl -- it was my girlfriend at
19 the time. You know, hanging out, having dinner,
20 whatever have you. It was evening hours, it was
21 after work.

22 Q. Okay, so tell us what happened. The doorbell
23 rang, somebody knocked on the door, what was it?

24 A. The doorbell rang. Kathie came to the front
25 door. I answered the front door.

- 1 Q. Right. And where was Miss Westridge at the
2 time, if you know?
- 3 A. In the kitchen.
- 4 Q. Okay, can you see the front door from the
5 kitchen?
- 6 A. Vaguely.
- 7 Q. Well, what does that mean?
- 8 A. It means you can see it if you're standing at
9 the right angle, but you can't see directly to
10 it.
- 11 Q. Well, when you went to answer the door, were you
12 able to observe or did you turn around and
13 observe Miss Westridge looking at the door?
- 14 A. When I answered the door, did I turn around and
15 see her? No. She was in the kitchen at the
16 moment.
- 17 Q. Okay, so you don't know if she was able to see
18 the door from where she was at the time you
19 opened the door?
- 20 A. Correct.
- 21 Q. Okay, so you open the door and there's your
22 sister?
- 23 A. Correct.
- 24 Q. What did you say to her and what did she say to
25 you?

1 A. She asked about her money --

2 Q. Well, exactly what were her words, do you
3 recall?

4 A. She wanted to talk --

5 MR. PINSKY: Objection, Your Honor.

6 A. -- she wanted to know about her money.

7 THE COURT: Excuse me, when he
8 stands up, you hush.

9 THE WITNESS: Oh, sorry.

10 THE COURT: Now, then, one question
11 at a time. Is that going to be your
12 objection?

13 MR. PINSKY: Yes, ma'am.

14 THE COURT: Okay, one question at a
15 time. Not three questions, one question.
16 So start at the beginning. I'm going to
17 sustain the objection that I was about to
18 hear, because I was about to do the same
19 thing. And ask one question at a time.

20 MR. PINSKY: And, Your Honor, if I
21 can just complete that, and let the witness
22 finish his answer.

23 THE COURT: Exactly, before you
24 interrupt and ask another question. So
25 start again with those questions.

GREHER - CROSS - HELGERMAN

1 MR. GREHER: Okay.

2 THE COURT: One at a time.

3 BY MR. GREHER:

4 Q. What did you say to her?

5 A. I told her that she's not supposed to be there;
6 it is against the law.

7 Q. Were those the first words out of your mouth?

8 A. Yeah.

9 Q. And what law was it against?

10 A. Under the circumstance it was the bankruptcy
11 going on. She was not supposed to be on the
12 premises, not supposed to be there.

13 Q. Who told you that?

14 A. The attorney.

15 Q. When did the attorney tell you that?

16 A. The attorneys told me with Mrs. Westridge --

17 THE COURT: Mr. Greher, let's not
18 get confrontational. That's enough of that.
19 I am putting in an objection. You know good
20 and well it's not a law -- I mean that he's
21 not a lawyer. So you can ask your
22 questions, but keep it to --

23 BY MR. GREHER:

24 Q. Well, in response to your telling her that she
25 shouldn't be there, what did she say to you?

1 A. She didn't care. She told me go ahead, call --
2 because I told her I could call the cops. She
3 said go ahead. She wanted to know about her
4 money. She wanted know what to do. All I
5 wanted her to do was leave. She shouldn't be
6 there.

7 Q. She was asking those questions of you, correct?

8 A. Yes.

9 Q. All right, did she ask to speak to Miss
10 Westridge?

11 A. No.

12 Q. Did she in fact speak to Miss Westridge?

13 A. Yes.

14 Q. And tell us about that conversation; who
15 initiated that conversation, did Miss Westridge?

16 A. Well, when Miss Westridge showed to the door to
17 see who was out there and see who it was.
18 Kathie told her to go back inside, it had
19 nothing to do with her.

20 Q. So did you get the impression then that she only
21 wanted to talk to you at that time and place?

22 A. {Indiscernible}.

23 THE COURT: That's not an answer.

24 You need to answer the question.

25 A. No.

GREHER - CROSS - HELGERMAN

1 THE COURT: Yes or no is a correct
2 answer. Uh-huh is not an answer.

3 Q. Well, what was your impression, what is it that
4 you thought she meant when she told Miss
5 Westridge to go back inside, that it was none of
6 her business?

7 A. Because she was there in regards to the
8 situation regarding Miss Westridge.

9 Q. So don't you think it would have been Miss
10 Westridge's business to stay there?

11 A. Miss Westridge did stay there. She stayed there
12 because it's her residence, it's her house. She
13 had every right to be there.

14 Q. And other than telling Miss Westridge to go back
15 inside, that it was none of her business, did
16 she say anything else to Miss Westridge?

17 A. She wasn't able to.

18 Q. So is that a no?

19 A. No.

20 Q. Okay, and then she left?

21 A. Yes.

22 MR. GREHER: Nothing further.

23 THE COURT: Any redirect?

24 MR. PINSKY: No, ma'am.

25 THE COURT: May I excuse this

1 witness?

2 MR. GREHER: You may.

3 THE COURT: You may be excused.

4 THE WITNESS: Go outside?

5 THE COURT: You can go outside, or
6 you can go home, whichever you prefer.

7

8 (Witness excused.)

9

10 MR. PINSKY: Your Honor, at this
11 time, before the debtor rests her main case,
12 I would like to state in my place that
13 Exhibit 6 is an invoice from my firm for
14 time spent prior to today working on the
15 prosecution of this motion, the preparation
16 of the joint pretrial order and preparation
17 for the hearing.

18 THE COURT: Okay, and Mr. Greher,
19 you did not cross-examine Miss Malin on
20 this.

21 MR. GREHER: Your Honor, it was my
22 thought that I would put in any opposition
23 to the time records in writing.

24 THE COURT: We may not get there,
25 so we may do that in a minute.

1 MR. GREHER: And with respect to
2 Mr. Pinsky, I would not want to be in
3 position to question him at this time in any
4 event, because he's the attorney.

5 THE COURT: Okay, good.

6 MR. PINSKY: So Your Honor, before
7 we rest our case, this is a true and correct
8 copy of contemporaneous time records of my
9 time working on this matter, and we would
10 move the introduction of Exhibit 6.

11 THE COURT: I'm going to hold off
12 on both of those.

13 MR. PINSKY: Yes, ma'am.

14 THE COURT: And I will let Mr.
15 Greher at least have some kind of input into
16 yours and Miss Malin's records.

17 MR. PINSKY: Of course, I just
18 didn't want to let that slip before we
19 rested.

20 THE COURT: Thank you.

21 MR. PINSKY: And we now rest.

22 THE COURT: Okay, very good.

23 Mr. Greher.

24 MR. GREHER: Your Honor, at this
25 time, on behalf of my clients, we move to

1 dismiss this proceeding on the grounds that
2 the debtor has failed to prove any type of a
3 prima facie case.

4 THE COURT: Overruled.

5 MR. GREHER: And further, on behalf
6 of my client, Kathie Ford, I move to dismiss
7 that she's not a creditor and so she can't
8 be subject to and liable to any of the
9 sanctions with respect to the Bankruptcy
10 Code.

11 MR. PINSKY: Your Honor, there is
12 no difference, based on the record before
13 this Court, between the actions of Miss Ford
14 on behalf of her husband, Steven Ford, and
15 the actions of a commercial collection
16 agency on behalf of an originating creditor.
17 Collectors are just as bound by the
18 automatic stay when they are on notice. And
19 Miss Ford was certainly acting on behalf of
20 her husband.

21 THE COURT: You can go on, but I
22 overrule. I overrule. The motion to
23 dismiss is at this moment premature, if
24 not -- I think there is a prima facie case.
25 And I agree with Mr. Pinsky, being a

1 creditor, when you're attempting to collect
2 a debt from someone else as an agency, and
3 that's what you've got here.

4 MR. GREHER: I would point out,
5 Your Honor, if I may, that there's a
6 significant difference between that analogy
7 and the instant situation. And the
8 difference is that in the collection agency
9 scenario there is a definite agency
10 relationship in writing. There's a
11 relationship between the principal and the
12 agency in writing. We don't have that here.

13 THE COURT: I'm not about to allow
14 the Bankruptcy Code to be so distorted as to
15 the way you're trying to have it ruled, and
16 I will not rule that way. You may take me
17 up on it, or you may write on it, whatever
18 you want to do, but I will not rule that
19 way.

20 Again, just a quickie here, marital
21 property, so.

22 MR. GREHER: So Mr. Pinsky has
23 rested, so --

24 THE COURT: It's your turn.

25 MR. GREHER: Very good. At this

GREHER - DIRECT - STEVEN FORD

1 time I call Steven Ford.

2 THE COURT: Mr. Ford, let me remind
3 you you're under oath. If you'll be seated,
4 please. State your full name.

5 THE WITNESS: Steven J. Ford.

6 THE COURT: And your address,
7 please.

8 THE WITNESS: 27 Carter Road, New
9 Hampton, New York 10958.

10 THE COURT: Very good. He's your
11 witness.

12

13 (STEVEN FORD, having been
14 previously duly sworn, testified as
15 follows:)

16

17 MR. GREHER: Thank you.

18 DIRECT EXAMINATION

19 BY MR. GREHER:

20 Q. Mr. Ford, were you present at a Bankruptcy Court
21 341 meeting on May 30th, 2007?

22 A. Yes.

23 Q. And when you got there at that date was Miss
24 Westridge already there?

25 A. No.

GREHER - DIRECT - STEVEN FORD

1 Q. And about how long after you got there did she
2 arrive?

3 A. Oh, 20 minutes, 15.

4 Q. Okay, did you ever see her park her car?

5 A. No.

6 Q. Did you have any idea where she parked her car?

7 A. No idea.

8 Q. Now, did there come a time at that date where a
9 meeting was conducted by Jeffrey Sapir, the
10 Chapter 13 trustee?

11 A. Yes.

12 Q. And were you present at that meeting?

13 A. Yes, I was.

14 Q. And at the end of Mr. Sapir's inquiry were you
15 given an opportunity to ask any questions?

16 A. Yes.

17 Q. Okay. And were any questions asked by either
18 you or your wife?

19 A. By my wife, yes.

20 Q. Okay. And do you recall what questions were
21 asked at that time?

22 A. It was to do with the home that the -- the value
23 of the home, yes.

24 Q. Okay. And was there any shouting at that
25 meeting?

- 1 A. Not shouting, no.
- 2 Q. Okay, was there anybody raising their voices?
- 3 A. Yes, some voice raising, yes.
- 4 Q. Did Kathie raise her voice?
- 5 A. Not really, maybe a little bit.
- 6 Q. Did Miss Malin raise her voice?
- 7 A. Yes, she did.
- 8 Q. And what about Miss Westridge, did she raise her
- 9 voice?
- 10 A. No.
- 11 Q. What about Mr. Sapir?
- 12 A. No.
- 13 Q. What about you?
- 14 A. No.
- 15 Q. Okay. Were other creditors there?
- 16 A. Yes.
- 17 Q. Any of them raise their voices?
- 18 A. No.
- 19 Q. There came a time when the meeting was over and
- 20 you left?
- 21 A. Yes.
- 22 Q. And did something take place outside of the
- 23 courthouse on that day?
- 24 A. Yes, it did.
- 25 Q. Tell us what happened at that time and place, if

1 you would?

2 A. Well, Ann-Marie and her sister left before us,
3 and they walked down the steps, and my wife was
4 ahead of me. Whew. And my wife was yelling a
5 little bit.

6 Q. What was she yelling, do you recall the words?

7 A. She was yelling at Sandy, not at Ann-Marie, she
8 was -- whatever. I walked down to the sidewalk
9 to speak to Ann-Marie. And I said, "Ann-Marie,
10 you were my friend, how can you do this to me?"
11 And I said, "why? Why? Why? I don't get it."
12 And I was moving my hands. I might have touched
13 her, yes. And she never said a word. And
14 Sandy, she was like leave my sister alone,
15 whatever. I was like oh, my gosh, what's going
16 on. And I sort of walked away in disbelief. I
17 couldn't believe this just happened. And I
18 remember Miss Malin coming out, and she says,
19 "girls, you need to come inside." And that was
20 it. I'm sorry.

21 Q. Other than what you just described in terms of
22 your conversation, did you say anything else to
23 anybody at that time and place?

24 A. No, no, I did not.

25 Q. And when Miss Malin came out and asked Miss

GREHER - DIRECT - STEVEN FORD

1 Westridge and her sister to come back inside --

2 A. To come back in, yes.

3 Q. -- did they go back inside?

4 A. Yes, they did.

5 Q. And what did you do at that time?

6 A. I -- we left.

7 Q. Okay. Where did you go?

8 A. We went home.

9 Q. Okay, did you wait around to follow anybody to
10 their car?

11 A. No, I wanted to get -- no, no.

12 Q. Okay. Since that time have you had any
13 conversation with Miss Westridge at any time?

14 A. No.

15 MR. GREHER: I have nothing further
16 of this witness.

17 THE COURT: Mr. Pinsky, your
18 witness.

19 MR. PINSKY: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. PINSKY:

22 Q. Mr. Ford, why was your wife at the creditors'
23 meeting?

24 A. For support.

25 Q. For support, okay. And did you ask her to come?

- 1 A. Yes, I did.
- 2 Q. All right. And why did you ask her to come?
- 3 A. For support. I need support, as you can see.
- 4 Q. For support, all right. And it was your money
- 5 that you were looking to get repaid, right?
- 6 A. Yes.
- 7 Q. All right. And so you asked questions of Miss
- 8 Westridge at meeting, right?
- 9 A. No, I did not.
- 10 Q. Why not?
- 11 A. I -- my wife is very good at that, better than
- 12 me. As you can see, you know, it is a little
- 13 overwhelming for me, so I let her ask the
- 14 questions.
- 15 Q. Why did you go?
- 16 A. Because I'm a creditor on a case, and I wanted
- 17 to see what this was all about. I wanted to
- 18 learn a little bit.
- 19 Q. And you wanted to get paid?
- 20 A. Yeah.
- 21 Q. And so your wife did essentially all the
- 22 talking?
- 23 A. Yeah, there was very little, because the trustee
- 24 does most of the talking. He didn't really
- 25 allow you to talk much, so there was very

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- 1 little.
- 2 Q. But you deferred to her?
- 3 A. What?
- 4 Q. You deferred to your wife --
- 5 A. Yes.
- 6 Q. -- when it came to statements or questions?
- 7 A. Yes.
- 8 Q. Is that something you normally do?
- 9 A. In certain circumstances, yes.
- 10 Q. All right, sure. And she was asking questions
- 11 about the claim that you were asserting?
- 12 A. Yes.
- 13 Q. All right. Now, when you went outside, Mr.
- 14 Ford, how long were you outside with Miss
- 15 Westridge and her sister and your wife?
- 16 A. Oh, a minute.
- 17 Q. A minute?
- 18 A. Two minutes.
- 19 Q. A minute or two, okay. And what -- you said
- 20 that your wife was yelling, what was she
- 21 yelling?
- 22 A. I just wanted to speak to Ann-Marie. I didn't
- 23 know -- it was some yelling with her and Sandy.
- 24 I wanted to speak to Ann-Marie. She was the one
- 25 I dealt with.

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1 MR. PINSKY: Objection,

2 nonresponsive.

3 Q. What did your wife yell?

4 A. I don't recall.

5 Q. Okay, you don't recall anything that she said?

6 A. No.

7 Q. And how long was she yelling?

8 A. I don't recall that.

9 Q. Was it a minute?

10 A. Probably not.

11 Q. Two minutes?

12 A. No.

13 Q. 30 seconds?

14 A. I have no idea. I don't recall her yelling.

15 Like I said, I was focused on Ann-Marie.

16 Q. You don't recall anything at all that she said
17 during that time?

18 A. Language, no.

19 MR. PINSKY: Pass the witness, Your
20 Honor.

21 THE COURT: Any redirect?

22 MR. GREHER: No, Your Honor, thank
23 you.

24 THE COURT: You may step down.

25

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1 (Witness excused.)

2

3 MR. GREHER: Kathie Ford.

4 THE COURT: Miss Ford, let me
5 remind you you're under oath. And we need
6 you to give us your full name.

7 THE WITNESS: Sure. Kathleen Ford.

8 THE COURT: And your address,
9 please, Miss Ford.

10 THE WITNESS: 27 Carter Road, New
11 Hampton, New York 10958.

12 THE COURT: She's your witness.

13 MR. GREHER: Thank you.

14

15 (KATHLEEN FORD, having been
16 previously duly sworn, testified as
17 follows:)

18

19 DIRECT EXAMINATION

20 BY MR. GREHER:

21 Q. Kathie, you were at the 341 meeting on May 30th?

22 A. Yes.

23 Q. And did you participate in any questioning of
24 Ann-Marie Westridge at that time and place?

25 A. Regarding the situation, yes, I did.

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1 Q. And do you recall what questions you asked at
2 that time?

3 A. I basically was inquiring about the sale of her
4 home.

5 Q. Okay, and was that question addressed to Miss
6 Westridge or to her attorney or to Mr. Sapir?

7 A. Mr. Sapir.

8 Q. Okay. And the responses that you received to
9 those questions, were they from Mr. Sapir or
10 somebody else?

11 A. Her attorney, Andrea, would basically just say
12 get a lawyer. Mr. Sapir would -- when he --
13 when it was appropriate would say I cannot give
14 you advice.

15 Q. Okay, so you did not have an attorney when you
16 went there, is that correct?

17 A. No, we did not, no.

18 Q. Did you consult with any attorney prior to going
19 to this meeting?

20 A. No, we did not.

21 Q. Okay. At any time during the period of time
22 that you were in the meeting room, were you
23 raising -- did you raise your voice?

24 A. No.

25 Q. Did there come a time afterwards that you raised

1 your voice?

2 A. Was I outside yet, or still in --

3 Q. Did there come a time when you went outside?

4 A. Yes.

5 Q. And when you went outside, did you raise your
6 voice?

7 A. I'm sure I got a little loud.

8 Q. Do you recall what it was you said and who it
9 was you said it to?

10 A. I absolutely do. I said to Ann-Marie, if you
11 are going to call my brother, the least you can
12 do is tell him the truth.

13 Q. Now, what is that in reference to?

14 A. That is in reference to the first meeting which
15 we attended. I was -- again, I am sure you all
16 must realize that I might as well read Japanese
17 when I read all the papers that come from the
18 Court. And I had some questions regarding
19 things that I would ask at the meeting. She had
20 her son's vehicles listed in one spot, and I
21 know it was my brother's truck, but it was
22 listed under a different category, differently,
23 and I questioned, like, why is this listed over
24 here? I didn't want the truck. I didn't go
25 after the truck. I was just asking why is the

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1 truck over here. She proceeded to go back and
2 tell my brother that I went after his truck.

3 Q. So that was why you said what you said outside?

4 A. That is exactly why.

5 Q. And is that the only thing you said to Miss
6 Westridge?

7 A. That is all I said to Miss Westridge.

8 Q. Now, did you say something to somebody else?

9 A. Well, then her sister swung around quite
10 quickly, and I was away from them, as everybody
11 stated, I was up on the thing. And I -- the
12 truth is I really don't recall, but her sister
13 and I engaged in, you know, confrontation at
14 that point.

15 Q. Were you using any profanities, and if so, what
16 was it that you said?

17 A. I may have called her sister a bitch, maybe.
18 And I can tell you one other part that I do
19 recall. And that is when their attorney did
20 open the door to tell the girls to come in, as
21 they came up the steps, her sister turned to me
22 and said this is all your fault. And to which I
23 replied, "I am not responsible for a \$380,000
24 debt."

25 Q. Okay, was that it at that time?

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1 A. That was it.

2 Q. When Miss Malin called her client and her sister
3 back in, what did you do?

4 A. We went to the car and we went home.

5 Q. Did you have any idea where Miss Westridge was
6 parked?

7 A. No, I did not.

8 Q. Okay. Did there come an incident five months
9 later?

10 A. There was.

11 Q. Would you tell us what happened at that time and
12 place?

13 A. At that time our attorney was Mr. O'Leary, and
14 there was something with Court that he had
15 attended, and I hadn't heard from him. I called
16 his office to find out what had happened, and
17 his assistant said, oh, you didn't --

18 Q. Well, you can't tell us what somebody else said,
19 but you can tell us what you did as a result of
20 that?

21 MR. PINSKY: Your Honor, I believe
22 Mr. Greher opened the door.

23 THE COURT: I think so too. She
24 can go on.

25 MR. GREHER: That's fine, I have no

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1 problems with it.

2 THE WITNESS: Oh, okay.

3 MR. GREHER: I was just trying to
4 avoid hearsay.

5 Q. By all means, tell us what did he say?

6 A. Sure, okay. She said, oh, you obviously didn't
7 get the letter yet. And I said regarding? And
8 she said, well, they have changed it from
9 initially a loan to it's now an investment. You
10 invested in a company that went belly up. I
11 said, well, but that's a lie. I got off the
12 phone, whatever -- do you want me to continue
13 with the evening?

14 Q. Sure.

15 A. I had to take both of my children to sign them
16 up for baseball at the school. I went to the
17 school, I signed them up. When I left I did
18 drive to my brother's residence; his truck was
19 not there. I then drove to Miss Westridge's
20 house, and I wasn't sure, a very long dark
21 driveway. I turned the lights down the driveway
22 to see. I saw my brother's truck. I saw her
23 son's vehicle, and I saw her husband's vehicle.
24 I drove down. I rang the door well. Billy came
25 to the -- William, whatever we're calling him --

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1 came to the door, and I said what's going on?
2 You're now -- you've now flipped it to an
3 investment, which you know is a lie. How am I
4 supposed to fight a lie? You know, it's one
5 thing to fight a fight fair, but now you're
6 lying. What am I supposed to do. He said I
7 don't know what to tell you. You invested in a
8 company that went belly up.

9 I'm not quite sure at what point Miss
10 Westridge came to the door, but Billy and I
11 continued a little bit. One of the things I did
12 talk to Billy about was his relationship with
13 Steve. And I said, you know, Billy, you were
14 the one who came to Steve and said could you
15 help us. I said at no point did it ever occur
16 to you to apologize to Steve, to say I'm sorry
17 this went down, I know you were just trying to
18 help us.

19 At some point Miss Westridge opened
20 the door, just a crack. I did say to Billy --
21 to Billy -- I didn't look at her, could you
22 please tell her to go inside. She said it's my
23 house. I responded with it's my brother.

24 You know, Billy basically was like oh,
25 you know, what good would it do to say anything

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1 to Steve and blah blah blah. And twice he broke
2 out into complete utter tantrums. One was about
3 my truck, which I told you, she told him I went
4 after, which I didn't. And at some point she
5 did say and you forged my name, and Billy said,
6 yeah, you forged her name, which I said --

7 THE COURT: Can we have a question
8 here?

9 THE WITNESS: I'm sorry.

10 MR. GREHER: Okay.

11 THE COURT: Thank you, Mr. Greher.

12 THE WITNESS: Am I rambling?

13 THE COURT: Yes.

14 THE WITNESS: You should have cut
15 me off.

16 MR. GREHER: Okay.

17 Q. How long were you in front of the house?

18 A. Oh, five minutes.

19 Q. Other than telling Miss Westridge to go inside,
20 it was none of her business, did you have any
21 conversation with her at all?

22 A. Absolutely not.

23 Q. And other than -- strike that. Did she in fact
24 go back inside?

25 A. No, she did not.

PINSKY - CROSS - KATHLEEN FORD

1 Q. And how long was she standing by the door before
2 you left?

3 A. I don't know, three minutes.

4 Q. And during that three-minute period, were you
5 and your brother arguing?

6 A. He was arguing with me.

7 Q. Okay, and were you arguing back?

8 A. No.

9 Q. Were you raising your voice?

10 A. Never, never.

11 Q. And there came a point when you left?

12 A. Yes.

13 Q. That's it?

14 A. When he slammed the door in my face.

15 Q. And you left?

16 A. I left.

17 MR. GREHER: Okay, nothing further.

18 THE COURT: Yours, Mr. Pinsky.

19 MR. PINSKY: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. PINSKY:

22 Q. So Miss Ford --

23 A. Yeah.

24 Q. -- how long was it that you had that
25 conversation with Mr. O'Leary's office that you

PINSKY - CROSS - KATHLEEN FORD

1 drove over to Miss Westridge's house?

2 A. I was --

3 MR. GREHER: I object to the
4 question. It's not a fair characterization
5 of the statement. The witness had
6 previously testified that she drove and took
7 her kids to sign up for baseball.

8 THE COURT: I'm going to overrule
9 your objection.

10 Q. So it was hours?

11 A. Hours, right.

12 Q. And it was the same day?

13 A. Correct.

14 Q. All right. And what was it that Mr. O'Leary's
15 office told you, that you didn't have a claim in
16 the case?

17 A. That -- right, and that they had received
18 paperwork --

19 Q. And that you wouldn't get paid?

20 A. No, not that we wouldn't get paid. That it had
21 been changed to an investment, that you invested
22 in a company.

23 Q. That went belly up?

24 A. That's what Billy said.

25 Q. That no longer had any money?

1 A. That's what Billy said. That's not what the
2 attorney said.

3 MR. PINSKY: Thank you, Your Honor.

4 THE COURT: Redirect?

5 MR. GREHER: No, Your Honor.

6 THE COURT: You may step down.

7

8 (Witness excused.)

9

10 THE COURT: Mr. Greher.

11 MR. GREHER: We rest, Your Honor.

12 THE COURT: Okay, what do you

13 two --

14 MR. PINSKY: Well, Judge, the last
15 time I was here, I started rambling on what
16 sounded like a closing statement, and you
17 told me to do it in writing.

18 THE COURT: Yeah, and I'm not so
19 sure. The Court will take about a
20 ten-minute recess.

21 THE CLERK: All rise.

22

23 (Recess in the proceeding.)

24

25 (Discussion Off the record.)

1 THE COURT: He knows to come right
2 back in, I'm sure.

3 MR. PINSKY: I think Miss Malin is
4 going to get him.

5 THE COURT: If you'll see, please.

6

7 (Discussion off the record.)

8

9 THE COURT: We are going to take a
10 recess until 2:00 p.m.

11 MR. PINSKY: Yes, ma'am.

12 THE COURT: When we come back at
13 2:00 p.m., I'm going to give each of you
14 thirty minutes closing argument, and then I
15 will give you rebuttal for maybe ten or
16 fifteen minutes after that.

17 MR. PINSKY: Thank you.

18 THE COURT: So that gives you time
19 to get your thoughts together to come in.
20 I've decided to do it orally. I think I'm
21 not willing to, at this point, do the
22 expense of a transcript and all the other
23 things.

24 MR. GREHER: Very good.

25 THE COURT: So we'll see you back

1 at 2:00 p.m.

2 MR. PINSKY: Very good.

3 THE CLERK: All rise.

4

5 (Recess in the proceedings.)

6

7 THE COURT: It's your action.

8 MR. PINSKY: Yes, ma'am.

9 THE COURT: So if you will begin.

10 We are looking at the clock.

11 MR. PINSKY: Would you like me to

12 stand up here?

13 THE COURT: I think it would be

14 more comfortable for you standing right

15 there. And I can see you closer.

16 MR. PINSKY: Very good.

17 THE COURT: Go right ahead.

18 MR. PINSKY: Section 322(a)(6) of

19 the Bankruptcy Code operates as a stay of

20 any act to collect, assess or recover a

21 claim against the debtor that arose before

22 the commencement of the case under this

23 title. Section 362(k), formerly 362(h),

24 provides that an individual injured by any

25 willful violation of the stay provided by

1 this section shall recover actual damages,
2 including costs and attorneys' fees, and in
3 appropriate circumstances, may recover
4 punitive damages.

5 Now, for purposes of Section
6 362(k), an act is willful if it is done with
7 knowledge or notice of the filing and
8 pendency of the bankruptcy case. It's clear
9 and undisputed that Steven and Kathie Ford
10 had knowledge of the bankruptcy case. Mr.
11 Ford was scheduled as a creditor and filed a
12 claim in the case. The Fords actively took
13 part in two Section 341(a) meetings in order
14 to obtain payment, they hoped, on Steven
15 Ford's disputed pre-petition claim. So I
16 believe willfulness is just -- it's not an
17 issue in this case. It's established as a
18 matter of law. Even if the Court
19 disregarded the testimony of the debtor's
20 witnesses -- and I'm not suggesting that the
21 Court should -- I believe Steven Ford's
22 testimony about the events that took place
23 after the Chapter 13 341(a) meeting
24 establishes a violation of the stay. Mr.
25 Ford testified that he approached the debtor

1 after the creditors' meeting outside of the
2 building, and in a conversation that lasted
3 perhaps one or two minutes asked her how she
4 could do this to him and said that they
5 needed to talk. He admitted that he may
6 have put his hand on her at this time.

7 His wife, Kathie Ford, testified
8 that while this was occurring she was
9 engaged in a shouting match with the
10 debtor's sister in the immediate vicinity.

11 The plain implication of Mr. Ford's
12 speech and actions in the context of the
13 heated remarks being exchanged close by is
14 that of a creditor applying pressure to
15 collect a debt, in violation of Bankruptcy
16 Code Section 362(a)(6).

17 The testimony of the debtor's
18 witnesses was generally consistent and, I
19 believe, credible. The debtor testified
20 that Steven Ford grabbed her arm outside of
21 the building where the creditors' meeting
22 was being held; told her that he wanted to
23 talk to her, while Kathie Ford demanded her
24 fucking money and called the debtor's sister
25 a bitch, Sandra Raymond. The debtor further

1 testified that when her attorney, Andrea
2 Malin, told the debtor and Miss Raymond to
3 get inside, Steven Ford told the debtor, in
4 a manner that I believe could only be
5 construed as impliedly threatening, that the
6 Fords would be waiting for the debtor at her
7 car.

8 Andrea Malin testified that she and
9 a number of other lawyers heard shouting
10 outside the Section 341(a) room after the
11 debtor and her sister had left the room.
12 Miss Malin testified that she observed
13 Steven Ford holding the debtor by her arm,
14 and that Sandra Raymond had placed herself
15 between the debtor and Steven Ford. Miss
16 Malin further testified that Kathie Ford was
17 shouting "I want my fucking money" and
18 called Sandra Raymond a bitch, during a
19 diatribe that lasted for a minute or two.

20 Miss Malin testified that the
21 debtor was crying and appeared to be upset.
22 After directing her client and Miss Raymond
23 to go back inside the building, Miss Malin
24 testified, as did the debtor, that she heard
25 Steven Ford say that they, the Fords, would

1 be waiting for the debtor at her car.

2 Sandra Raymond testified that the
3 Fords were waiting for her and the debtor
4 when they exited the building, having left
5 the Section 341(a) meeting room, and that
6 Steven Ford accosted the debtor, grabbing
7 her by the arm. While Kathie Ford stood
8 above them on the porch stoop and shouted,
9 once again, "I want my fucking money."
10 While she was not certain to the time that
11 elapsed during this confrontation, Miss
12 Raymond thought it was between one and two
13 minutes. Miss Raymond further testified
14 that she and the debtor were attempting to
15 leave the premises when they exited the
16 building, and that she told the debtor
17 "let's go", but that Steven Ford was holding
18 the debtor's arm and that she was crying and
19 looked upset.

20 Miss Raymond also testified that
21 she heard Steven Ford remark that they, the
22 Fords, would be waiting for the debtor at
23 her car, as they were directed back inside
24 the building by Miss Malin.

25 Mr. Helgerman testified that he was

1 present one evening at the debtor's home
2 when Kathie Ford arrived. He testified that
3 he answered the door, and upon seeing Kathie
4 Ford said that it was illegal for her to be
5 there and told her to go away. He further
6 testified that Kathie Ford -- that she
7 wanted her money and asked him what he was
8 going to do about it. He testified that he
9 replied nothing, and again demanded that she
10 leave. Miss Ford refused.

11 The debtor testified that she was
12 in the kitchen preparing dinner when she
13 heard shouting at the front door and came
14 out to investigate. When she came out and
15 saw Kathie Ford, she asked her to leave, and
16 received the reply that the argument was
17 none of her business and to go inside. She
18 remained, as did Kathie Ford, for perhaps
19 another two minutes before she finally left.

20 Mrs. Ford testified that she made
21 that trip to the debtor's residence within
22 hours of having a conversation with her
23 attorney's office in which she learned that
24 the debtor had amended her bankruptcy papers
25 to list Steven Ford's claim as a corporate

1 debt of All Points Construction, the
2 debtor's defunct corporation.

3 The debtor has consistently
4 testified here today that any claim that
5 Steven Ford asserted in the case arose from
6 investments that he had made in All Points
7 Construction.

8 Now, Your Honor, in this case our
9 burden of proof is to make our case by a
10 preponderance of the evidence. We have to
11 establish if the Court believes, as I did,
12 that notice or knowledge, willfulness is not
13 an issue whether there's been a violation of
14 the stay, has there been any act to collect,
15 assess or recover a claim against the debtor
16 that arose before the filing of the
17 petition. Miss Westridge initially
18 scheduled Mr. Ford's claim as an individual
19 claim. Mr. Ford filed a claim individually.
20 There later arose a dispute. But regardless
21 of the character of the claim, whether it's
22 ultimately determined to have been corporate
23 or personal, there is no dispute that Mr.
24 Ford and his wife, Kathie Ford, sought to
25 recover it from this debtor. And that's

1 what counts. They attempted to recover a
2 claim against the debtor that arose before
3 the filing of the case.

4 I believe the debtor's witnesses
5 were credible, and I have serious questions
6 about the credibility of the respondents.
7 That's not up to me. That's up to the
8 Court. But it's hard to understand how this
9 conduct taken in context could amount to
10 anything other than an attempt to pressure
11 the debtor to make good on a claim that the
12 Fords insisted she was responsible for.
13 They went to substantial lengths to do this.

14 This motion has been pending before
15 Your Honor for well over a year. It's been
16 adjourned again and again and again. The
17 claims litigation was extensive and was
18 finally resolved after it was fully briefed
19 by a withdrawal of the claim by the Fords'
20 attorney. I can't understand what the
21 conduct that took place in these two events
22 in the overall context of the case could
23 have been, other than an attempt to get
24 money from the debtor. I believe that is an
25 act in violation of Section 362(a)(6).

1 If Your Honor agrees that there has
2 been a willful violation of the stay, I
3 believe we're faced with a subsidiary issue,
4 and that is whether there has been an
5 egregious violation of this stay such as to
6 call for the imposition of punitive damages.
7 If the Court were to so find, I believe we'd
8 need to have a subsequent hearing on
9 punitive damages. Because one of the
10 elements that we are required to take into
11 account in such a motion, such a hearing is
12 the wealth of the defendant, so that the
13 sanction that is awarded by the Court is
14 sufficient, given their net worth, to sting
15 the pocketbook of the wrongdoer.

16 Thank you for your time.

17 THE COURT: Very good.

18 Mr. Greher.

19 MR. GREHER: Thank you, Your Honor.

20 While we are a nation of laws, it's
21 impossible for every single citizen to be
22 cognizant of every single law that this
23 country has. And while it has often been
24 said that ignorance of the law is no excuse,
25 the ignorance of the law is certainly

1 something that a Court can consider in
2 mitigation.

3 In this particular instance, Your
4 Honor, there has been absolutely no
5 testimony or proof of any shape, nature or
6 form to indicate that my clients knew of the
7 existence of Section 362 of the Bankruptcy
8 Code, knew what it meant, knew what the
9 consequences were of a violation, or even
10 knew how to violate that. They were not
11 represented by counsel. They were
12 individuals who went to a Bankruptcy Court
13 meeting because they thought they had to be
14 at that meeting and tried to find out what
15 the situation was by themselves.

16 Now with respect to Section 362,
17 Your Honor, I would submit to this Court and
18 to everybody that probably technical
19 violations take place on a daily basis
20 throughout this country. And what the Court
21 really needs to determine is whether or not
22 it's a question of the technical violation
23 with no harm, no foul, or is it the type of
24 violation that was an intentional and
25 knowing violation that was done by somebody

1 with an attempt or a series of attempts to
2 try to collect on a preexisting debt. And I
3 would submit to Your Honor that in this
4 particular case we have a situation where if
5 there was a violation it was not a willful
6 violation, and it was not an intentional
7 violation.

8 The movie "The Godfather" is fame
9 house for having many great lines that have
10 come back down into history and that people
11 use on a daily basis. And the one that
12 comes to mind for me quite often, Your
13 Honor, is the line, "it's not personal; it's
14 just business." And I would submit to Your
15 Honor that this particular instance is
16 purely personal. What took place or did not
17 take place in this particular case, Your
18 Honor, was done and was driven purely by
19 emotion.

20 Mr. Ford is a hard-working farmer.
21 Works very hard for his money. \$50,000 is a
22 lot of money. And it's \$50,000 that his
23 brother-in-law talked him into giving to his
24 brother-in-law's girlfriend. And he did it;
25 there's no question about it, he did it. A

1 time came where he is confronted with the
2 fact that his money may very well be gone.
3 Was he upset? You're darn right he was
4 upset. Was his wife upset? I'm sure she
5 was. This was an emotionally charged
6 situation. And the 341 meeting, Your Honor,
7 was an emotionally charged situation. There
8 were other creditors there. A lot of
9 people, in their own mind at the very least,
10 felt they got hurt by this debtor. I'm not
11 going to pass on whether they did or did
12 not, but the bottom line is that emotions
13 were rampant in that courtroom. There's no
14 question in my mind.

15 With respect to what took place or
16 did not take place outside, there was
17 obviously --

18 THE COURT: (Coughing). One
19 second, I'm sorry. I didn't mean to
20 interrupt. I apologize, Mr. Greher. I
21 think I'm okay.

22 MR. GREHER: What took place
23 outside the courtroom was still a carryover
24 from an emotionally-charged situation.

25 Now, we have heard conflicting

1 stories as to what in fact took place out
2 there, and I'm not going to belabor that
3 point. Your Honor had the opportunity to
4 hear those conflicting stories, and you
5 further had the opportunity to assess the
6 credibility and the demeanor of the
7 witnesses who testified concerning those
8 transactions or what took place. But one
9 thing is clear, that with respect to what
10 took place there, other than emotion, there
11 was no demands for money, there were no
12 efforts to try to collect. These were
13 people who were venting. Both sides were
14 venting. I would submit to this Court that
15 any of the actions that may have been
16 undertaken here were not intentionally and
17 willful violations of any statute or any
18 section of the Bankruptcy Code.

19 Now in hindsight was the conduct of
20 the parties proper under the circumstances?
21 Maybe, maybe not. But I would submit to Your
22 Honor that nothing took place outside of the
23 courtroom, outside of the courthouse that
24 would give rise to a willful and intentional
25 knowing violation of the automatic stay.

1 With respect to the incident that
2 took place five months later -- and I think
3 it's important for the Court to realize that
4 there was no contact during that five-month
5 period. That belies the claim that there
6 was some type of unified effort on the part
7 of Mr. and Mrs. Ford to attempt to collect
8 monies that they felt were due to them in
9 violation of the automatic stay. At that
10 particular instance, Your Honor, five months
11 later, the conversation was between Kathie
12 Ford and her brother. At the point in time
13 when Miss Westridge came on the scene to the
14 front door, she was told by Kathie to go
15 back inside; it was none of her business.
16 That's hardly an effort on the part of Mr.
17 and Mrs. Ford to collect monies from Miss
18 Westridge. It was a family dispute with
19 what appears to be somewhat of a
20 dysfunctional family, and it's got nothing
21 to do with this case, Judge. It truly
22 doesn't. The circumstances of where it took
23 place is the only connection to this case.
24 And the only reason that my client was there
25 was because she saw her brother's car there,

1 after first trying to locate her brother at
2 a different location.

3 Now with respect to the actual
4 testimony, once again, I really don't intend
5 to belabor it too much, but I would point
6 out to Your Honor that there are certain
7 inconsistencies with respect to the
8 testimony. Some of the testimony of the
9 debtor was made out of whole cloth; some of
10 it was absolutely honest and accurate, and
11 some of it was totally false and
12 contradictory to the statements contained in
13 her affidavit, which precipitated this whole
14 action.

15 With respect to the October
16 incident, Your Honor, the debtor in her
17 affidavit said that -- and I quote here --
18 if I can just find it here, she says that
19 "Kathie Ford made many physical threats to
20 her at the door." There was no testimony of
21 any such threats. In fact, Miss Westridge
22 said that the only statement made was "go
23 back inside, it's none of your business."
24 She also testified or she also set forth in
25 her affidavit that after this incident she

1 contacted the State Police. There is no
2 testimony to that effect.

3 The testimony concerning what may
4 or may not have taken place at the end of
5 the incident outside the courtroom is
6 likewise misleading. The statement that Mr.
7 Ford said, "we'll wait for you by your car,"
8 Judge, that's a ridiculous statement. And
9 the reason it's ridiculous is because the
10 testimony clearly established that the Fords
11 were already there when Miss Westridge came
12 into the 341 meeting. They would not
13 know -- they would not have seen her park
14 her car, number one. Number two, there are
15 five different parking lots in the area. So
16 it's a statement that has no basis in
17 anything. I think it is a gratuitous
18 statement. I think it's made up. I don't
19 believe it.

20 . Certainly the other statements,
21 obviously, there may have been physical
22 contact. I don't think it was the type of
23 physical contact that would give rise to an
24 assault. I think it's the type of contact
25 that if it in fact existed is the normal

1 type of contact that people who know each
2 other would in fact engage in when they are
3 trying to have a conversation. People,
4 including myself, Your Honor, have a
5 tendency to sometimes gesticulate.
6 Sometimes that gesticulation can go a little
7 bit further from the body than it should.
8 There is no attempt to physically harm Miss
9 Westridge here. I think that was the
10 furthest thing from anybody's mind. I don't
11 think anything like that existed.

12 Bottom line, Your Honor, once again
13 I say that whatever took place was
14 emotionally driven. It was not anything
15 intentional. It was not a known violation.
16 It was certainly not willful and certainly
17 not egregious. And I believe at this point
18 in time, Your Honor, that the Court should
19 dismiss these proceedings.

20 I thank you for your time.

21 THE COURT: Thank you, Mr. Greher.

22 Mr. Pinsky, any rebuttal?

23 MR. PINSKY: Your Honor, the
24 automatic stay is in place not only to
25 protect the assets of an estate and the

1 assets of the debtor in certain
2 circumstances, it's in place to protect the
3 jurisdiction of this Court. It's the
4 fundamental mechanism for this Court's
5 jurisdiction over all property of the
6 estate, very broadly construed.

7 If it's possible for this kind of
8 conduct to occur without a sanction, on the
9 very doorstep of either the courthouse or a
10 meeting room where creditors' meetings are
11 held, the automatic stay has very little
12 meaning.

13 Contrary to learned opposing
14 counsel's remarks, if Your Honor were to
15 believe the testimony of the debtor's
16 witnesses, the conduct of the Fords after
17 that meeting was truly outrageous. And
18 given the time relationship between Mrs.
19 Ford's learning that the claim that they had
20 so avidly pursued might now be lost because
21 it was being rescheduled as a corporate
22 claim that was unrecoverable, the timing
23 between that and her appearance at the
24 debtor's house could not be a mere
25 coincidence. Five months had passed, as Mr.

1 Greher has pointed out, and it's very hard
2 to believe that the reason that she was
3 there wasn't because of that telephone call
4 with Mr. O'Leary's office. And Mr.
5 Helgerman was clear that Mrs. Ford wanted
6 him to get the debt paid.

7 At that time Mr. Helgerman and Mrs.
8 Westridge -- Miss Westridge were in a
9 personal relationship, and one way to exert
10 pressure on someone is to exert pressure on
11 their family members or significant others.
12 Mrs. Ford may have been clever enough not to
13 directly confront the debtor at her home
14 over this issue, but her actions were just
15 as effective as if she had directed her
16 demand directly to Ann-Marie Westridge,
17 rather than to her estranged brother.

18 Thank you.

19 THE COURT: Mr. Greher, I will,
20 even though I'm not really supposed to, but
21 I will --

22 MR. GREHER: I'm fine, Judge, thank
23 you.

24 THE COURT: If you'll just give me
25 a minute, I need to have a brief recess.

1 But may I say to both counsel thank you very
2 much for a really concise trial. I
3 appreciate the work that both of you have
4 done, no matter the outcome. And that's why
5 I say it, so you can hear it now. Once I
6 make a ruling you might not be able to hear
7 me say thank you for a good trial.

8 MR. GREHER: Very good.

9 MR. PINSKY: Thank you, Judge.

10 THE COURT: Very good. We'll take
11 a recess. It should take me about fifteen,
12 twenty minutes.

13 THE CLERK: All rise.

14

15 (Recess in the proceeding.)

16

17 THE COURT: First, just to let you
18 know, my ruling is based on the evidence I
19 heard today and not anything else. I know
20 there are some affidavits in there, but I
21 basically like for the evidence to match the
22 affidavits, and if they don't, I go with
23 what's at the trial.

24 Most of the testimony presented
25 this morning does not need to be repeated.

1 Of course, at some times I'll refer to it in
2 the opinion. The core facts are simple, and
3 they are simple here, and that is because it
4 takes very little to violate the automatic
5 stay, and the automatic stay is sacrosanct.
6 An act in violation of the automatic stay is
7 to undermine the cornerstone of the
8 bankruptcy process.

9 And let me just add in here, if you
10 want to appeal this, I will give you a
11 written order and give you the cases that
12 I've cited. On this one it is a 2007
13 bankruptcy case in the Eastern District of
14 New York, Judge Eisenberg In re: Lucock.
15 But I will avoid the cites until such time
16 as you might need them.

17 Section 362(a) of the Bankruptcy
18 Code provides that the filing of a
19 bankruptcy petition operates as a stay
20 applicable to all entities, forbidding
21 various types of conduct, including at (3)
22 any act to obtain possession of property of
23 the estate or property of the estate or to
24 exercise control over the property of the
25 estate, and (6) any act to collect, assess

1 or recover a claim against the debtor that
2 arose before the commencement of the case
3 under this title. The automatic stay is in
4 effect as of the moment of filing of the
5 bankruptcy petition. The scope of the
6 automatic stay is extremely broad. It
7 stops -- and I emphasize -- all collection
8 efforts -- again, I emphasize -- all
9 harassment and all foreclosure actions, and
10 permits the debtor to be relieved of the
11 financial pressures that resulted in the
12 bankruptcy.

13 Because of its fundamental
14 importance, courts must display a certain
15 rigor in reacting to violations of the
16 automatic stay. Courts have repeatedly said
17 the automatic stay is broad and designed to
18 give the debtor some breathing room and
19 prevent a race among creditors to gain
20 assets. If the automatic stay is to have
21 substance, it must be construed to enjoin
22 creditors' conduct whenever and however
23 those acts encroach upon a debtor's
24 breathing room and particularly when those
25 acts amount to harassment, intimidation or

1 coercion.

2 I've listened very carefully to the
3 testimony today, and the parties basically
4 agree on the fundamental chain of events,
5 and their testimony was largely consistent.
6 The Fords do not dispute that there was a
7 confrontation between them and the debtor.
8 They do not dispute that they both
9 participated in the confrontation. The
10 Fords' own testimony confirms that they
11 precipitated the confrontation as the debtor
12 was leaving the Section 341(a) meeting of
13 creditors. The totality of the Fords'
14 conduct is one of coercive and harassing
15 behavior. The Court finds that the
16 combination of their conduct, even as the
17 Fords themselves describe it in their
18 separate testimony, was calculated to
19 intimidate the debtor to repay a debt,
20 either an obligation for which they believe
21 she was liable and/or from the funds
22 comprising the bankruptcy estate.

23 The incident in which the Fords
24 confronted the debtor following the meeting
25 of the creditors is sufficient by itself to

1 find by a preponderance of the evidence that
2 the Fords each violated the automatic stay
3 in this case.

4 There is also undisputed testimony
5 as to the second incident, where Kathie Ford
6 went to Miss Westridge's home and spoke with
7 Miss Ford's brother, at the time the
8 debtor's boyfriend, urging him to attempt to
9 collect the debt for the Fords. The timing
10 of that appearance is impossible to ignore.
11 Miss Ford testified that she had been
12 informed of the change in the status of
13 their claim that very day. A good deal of
14 the testimony has gone to the precise
15 relationship between Miss Ford's loan to the
16 debtor's business pursuant to a verbal
17 agreement. Mr. and Mrs. Ford are husband
18 and wife, and they presumably share their
19 marital assets, including a claim for
20 payment from the debtor or her business.

21 Mr. Ford also testified that Miss
22 Ford sometimes takes the initiative
23 concerning their joint affairs. Steven Ford
24 was listed as a creditor on the debtor's
25 bankruptcy petition, and the Fords believed

1 that they were creditors of the debtor,
2 based on their statement and conduct.

3 And may I read from the 341 notice
4 that goes to all creditors in every case:
5 The debtor is seeking a discharge of most
6 debts, which may include your debt. A
7 discharge means that you may never try to
8 collect the debt from the debtor. And that
9 is the precise language in the form that
10 goes out to every creditor.

11 Whether or not the Fords have a
12 claim against the debtor in a legal sense,
13 their conduct and statements, even their
14 joint appearance at the 341 meeting
15 demonstrates their belief that the debtor
16 had the means and the ability to cause the
17 debt to be repaid. The debt may have once
18 been understood according to a vague verbal
19 agreement between the debtor and Mr. Ford to
20 have been only business between those two
21 parties and between Mr. Ford and the
22 debtor's business. Regardless, the
23 automatic stay is not so narrow that the
24 Fords can avoid the consequences of their
25 conduct by arguing that they do not have a

1 claim against the debtor in a legal sense,
2 or by arguing that Mrs. Ford is not a
3 creditor who could violate the automatic
4 stay but that because the debt she was
5 trying to collect was owed to her husband
6 and not her.

7 The automatic stay is expressly
8 applicable to all entities and bars any act
9 to collect, assess or recover a claim
10 against the debtor that arose before the
11 commencement of the case under this title,
12 Title 11.

13 The automatic stay also forbids any
14 act to obtain possession of property of the
15 estate or property from the estate or to
16 exercise control over the property of the
17 estate. Moreover, the term claim is defined
18 in Section 101(5)(a) of the Bankruptcy Code
19 as a right to payment, whether or not such
20 right is reduced to judgment, liquidated,
21 unliquidated, fixed, contingent, matured,
22 unmatured, disputed, undisputed, legal,
23 equitable, secure or unsecured.

24 Section 362(k)(1) of the Bankruptcy
25 Code provides in relevant part: Any

1 individual injured by any willful violation
2 of a stay provided by this section shall
3 recover actual damages, including cost and
4 attorneys' fees and in appropriate
5 circumstances may recover punitive damages.

6 And I might add litigation over the
7 claim in objection is the proper exercise
8 for the creditors in bankruptcy, of which
9 the creditor has many rights; they just must
10 be exercised in a proper way.

11 Section 362(k) (1) mandates an award
12 of actual damages if an individual where the
13 violation is willful and the Court has
14 discretion to assess punitive damages, any
15 deliberate act taken in violation of the
16 stay which the violator knows to be in
17 existence justifies an award of actual
18 damages.

19 And in this case there is no doubt
20 that there was knowledge of the bankruptcy.
21 There was a written notice given to the
22 Fords, or Mr. Ford, from the Court that is
23 automatic. And the testimony here today was
24 that Mr. Sapir and Miss Malin both said you
25 need to get an attorney. Such an act need

1 not be performed with specific intent to
2 violate the stay, rather so long as the
3 violator possesses general intent in taking
4 actions which have the effect of violating
5 the automatic stay, the intent requirement
6 is satisfied.

7 The testimony in this case
8 demonstrates that the Fords had a general
9 intent in taking actions designated to
10 collect payments from the debtor in
11 violation of the automatic stay. Therefore,
12 the Court finds by preponderance of the
13 evidence their conduct, both individually
14 and when taken together, constituted a
15 willful violation of the automatic stay.

16 Having found a willful violation of
17 the automatic stay in this case, the Court
18 is required to award actual damages incurred
19 by the debtor in this case. No other damage
20 testimony was offered at trial beyond the
21 debtor's attorney fees and expenses. The
22 Court will allow reasonable attorneys' fees,
23 and the Fords will have an opportunity to
24 object to the reasonableness of the fees and
25 expenses.

1 The Court must also consider
2 whether an award of punitive damages is
3 appropriate in this case. Where a party has
4 willfully violated the automatic stay, an
5 additional finding of malicious or bad faith
6 on the part of the offending creditor
7 warrants the further imposition of punitive
8 damages. And in determining whether
9 punitive damages are appropriate, many
10 courts consider the factors set both in B.
11 Cohen & Sons Catering. It is an Eastern
12 District of Pennsylvania case, 1989; the
13 nature of the defendant's conduct, the
14 defendant's ability to pay, the defendant's
15 motives and any provocation by the debtor.

16 As a fifth factor, some courts have
17 considered the defendant's level of
18 sophistication. Punitive damages are
19 awarded in response to a particularly
20 egregious conduct for both punitive and
21 deterrent purposes. Such awards are
22 reserved for cases in which the defendants'
23 conduct amounts to something more than a
24 bare violation, justifying compensatory
25 damages or injunctive relief. To recover

1 punitive damages the defendant must have
2 acted with actual knowledge that he was
3 violating the federally protected right or
4 with reckless disregard of whether he was
5 doing so.

6 The integrity of the bankruptcy
7 system will be compromised if creditors are
8 free to confront a debtor using coercive and
9 intimidating conduct insisting upon
10 repayment. The Court is bound in this case
11 to assess punitive damages award to send a
12 message to these and all creditors that
13 their behavior in this case crossed the line
14 and will not be countenanced or excused.

15 No evidence has been submitted as
16 to the Fords' ability to pay, and the Court
17 cannot make a determination as to the
18 appropriate amount of punitive damages at
19 this time. Accordingly, the Court will
20 schedule a further hearing to give the Fords
21 an opportunity to appear and present
22 testimony and evidence concerning their
23 ability to pay. Trial counsel for the
24 debtor is hereby requested to prepare an
25 order awarding actual damages consisting

1 only of attorneys' fees and expenses against
2 the Fords jointly. This proposed order must
3 be accompanied by attorney time records for
4 the amounts requested and should be
5 submitted to the Fords and their counsel at
6 least ten days prior to the hearing
7 scheduled to consider the punitive damages
8 award. At the hearing the Fords may also
9 contest the amount of the attorneys' fees
10 requested.

11 We need to set a date for the
12 hearing. May I hear from you on when you
13 should be ready for this hearing on
14 punitives? What kind of time frame do you
15 all need?

16 MR. PINSKY: Your Honor, I think
17 the issue might best be addressed by Mr.
18 Greher and I discussing what kind of
19 information needs to be provided at that
20 hearing. So I would suggest --

21 THE COURT: Oh, let's put down a
22 control date.

23 MR. PINSKY: Thirty days.

24 THE COURT: Thirty days from now,
25 that's a control date, and then you can ask

1 for any time, or whatever you need to do on
2 that.

3 MR. GREHER: Okay.

4 MR. PINSKY: Does the Court have a
5 calendar on March 17th?

6 THE COURT: Yes, I do.

7 MR. PINSKY: Could we do it at that
8 time?

9 MR. GREHER: What day of the week
10 is that?

11 THE COURT: Tuesday.

12 MR. PINSKY: Tuesday.

13 MR. GREHER: Yeah, I think --

14 MR. PINSKY: And that would be just
15 to schedule the final hearing.

16 MR. GREHER: And that's just for
17 the purposes of scheduling.

18 MR. PINSKY: Although by that time,
19 Your Honor, we ought to be ready to actually
20 tee this thing up.

21 I do see Mr. Ford shaking his head
22 though, I don't know if he's going to be
23 here.

24 MRS. FORD: We'll be here.

25 MR. PINSKY: All right, so we could

1 do it on the 17th, but that's a Tuesday --

2 THE COURT: I would prefer that you
3 give me a status on that Tuesday, because I
4 feel it would take time, and to put
5 something like this on a Tuesday is a
6 difficult thing. As you know, that's our
7 busy day.

8 MR. GREHER: Yes.

9 MR. PINSKY: Yes, ma'am.

10 THE COURT: So what we would do is
11 have the attorneys appear on the 17th and
12 set up a time in order to have the hearing.
13 And at that time you can tell me how far
14 you've gone and what you need and what
15 hasn't been done.

16 MR. PINSKY: Yes, ma'am.

17 THE COURT: Mr. Pinsky, you and Mr.
18 Greher need to get together as soon as
19 possible to decide what you need in order to
20 make --

21 MR. PINSKY: Absolutely. So Your
22 Honor, what time on the 17th would be good?

23 THE COURT: 10:30, 11:30. Help me
24 here.

25 MR. PINSKY: 10:30 is the

1 miscellaneous calendar, that sounds good.

2 THE COURT: Let's make it 10:30.

3 Mr. Greher, any objection to that
4 date?

5 MR. GREHER: No, Your Honor.

6 THE COURT: Very good. Court is in
7 recess.

8 MR. PINSKY: Thank you, Your Honor.

9 THE CLERK: All rise.

10

11 (Whereupon, the above-captioned
12 proceedings concluded.)

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15 C E R T I F I C A T I O N

16 I certify that the foregoing is a correct
17 transcript from the OFFICIAL COPY of electronic
18 sound recording of the proceedings in the
19 above-entitled matter.

20

21

22 KAREN SCHMIEDER 25 March 2009

23

24

25

1 I N D E X

2

3	WITNESSES:	D	X	RD	RX	Court
4	Ann-Marie Westridge	11	27	51	55	25
5	Andrea Malin	58	72	-	-	-
6	Sandra Raymond	85	87	-	-	-
7	William Helgerman	96	100	-	-	-
8	Steven Ford	111	115	-	-	-
9	Kathleen Ford	119	127	-	-	-

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